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OF THE
Two Hundred and Third Legislature
OF THE
STATE OF NEW JERSEY
AND
Thirty-Second Under the New Constitution

CHAPTERS 155-351



New Jersey State Library

1989

CHAPTER 155

AN ACT concerning the certification of certain hazardous substances education and training programs and instructors, extending the funding for the "Worker and Community Right to Know Act" program, and amending P.L.1983, c.315.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 13 of P.L.1983, c.315 (C.34:5A-13) is amended to read as follows:

C.34:5A-13 Employee education, training program; certification of instructors.

13. a. Every employer shall have until October 30, 1985 to establish an education and training program for his employees, which shall be designed to inform employees in writing and orally of the nature of the hazardous substances to which they are exposed in the course of their employment and the potential health risks which the hazardous substances pose, and to train them in the proper and safe procedures for handling the hazardous substances under all circumstances. An employer shall provide his employees with the program not later than December 31, 1985, and annually thereafter. Any person who becomes an employee after the conclusion of the initial program shall be provided with the program within the first month of employment. Prior to entering an employment agreement with a prospective employee an employer shall notify a prospective employee of the availability of workplace surveys and appropriate hazardous substance fact sheets for the facility at which the prospective employee will be employed; except that this notification requirement shall not be applicable to employers before December 31, 1985.

b. Any employer who has established an employee education and training program for hazardous substances prior to the effective date of this act may request the Department of Health to certify that education and training program, which certification shall constitute compliance with subsection a. of this section.

c. Every employer shall establish an education and training program for his employees who work in a research and development laboratory, which shall be designed to inform employees in writing and orally of the nature of the hazardous substances to which they are exposed in the course of their employment and the potential health risks which the hazardous substances pose, and to train them in the proper and safe procedures for handling the hazardous

substances under all circumstances. An employer shall provide his employees with the program not later than December 31, 1985, and annually thereafter. Any person who becomes an employee after the conclusion of the initial program shall be provided with the program within the first month of employment.

d. The Department of Health shall establish a program for the certification of education and training programs provided to employers, for remuneration, for purposes of compliance with this act. The certification shall be valid for at least 12 months, shall provide for provisional and permanent certification, and shall be renewable.

e. The Department of Health shall establish a program for the certification of persons who are paid pursuant to the terms of a contract by employers to conduct education and training programs for purposes of compliance with this act. The certification shall be valid for at least 12 months, shall provide for provisional and permanent certification, and shall be renewable.

f. A person paid pursuant to the terms of a contract by an employer to conduct or provide an education and training program for purposes of compliance with this act shall be required to be certified pursuant to subsection d. or e. of this section, as appropriate, prior to conducting or providing the program.

g. The fee for certification for a 12-month period and the fee for a renewal of a certification each shall not exceed \$500.00. The fee for the certification and renewal shall be established pursuant to rules and regulations adopted by the Department of Health. All revenues from fees for the issuance or renewal of certifications shall be credited to the "Worker and Community Right to Know Fund" created pursuant to section 26 of this act. Applications for certification shall be made to the Commissioner of Health in the manner and on a form as the commissioner shall prescribe by rule or regulation.

h. The Department of Health shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to implement the provisions of this section.

i. Any person required to be certified by the Department of Health pursuant to this section who violates the provisions of subsection f. of this section, or any rule or regulation adopted pursuant thereto, shall be guilty of a disorderly persons offense.

j. The Commissioner of Health, upon making a finding that a person granted certification has violated any provision of this section

or any rules or regulations adopted pursuant thereto, may revoke, suspend, or modify any certification issued pursuant to subsection d. or e. of this section. A person whose certification is to be revoked, suspended, or modified pursuant to this subsection shall be entitled to a hearing, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to contest that action.

2. Section 26 of P.L.1983, c.315 (C.34:5A-26) is amended to read as follows:

C.34:5A-26 "Worker and Community Right to Know Fund" established; fees.

26. a. There is established in the Department of the Treasury a nonlapsing, revolving fund to be known as the "Worker and Community Right To Know Fund." The fund shall be credited with all fees collected pursuant to this section and interest on moneys in the fund shall be credited to the fund and all moneys in the fund are appropriated for the purposes of the fund, and no moneys shall be expended for those purposes without the specific appropriation thereof by the Legislature. The State Treasurer shall be the administrator of the fund, and all disbursements from the fund shall be made by the State Treasurer upon the warrant of the Director of the Division of Budget and Accounting.

b. The Department of Labor shall annually assess each employer a fee of not less than \$50.00 nor more than an amount equal to \$2.00 per employee to provide for the implementation of the provisions of this act. All fees collected by the department pursuant to this section shall be deposited in the fund.

c. The moneys in the fund shall be disbursed only for the following purposes:

(1) Expenses approved by the Director of the Division of Budget and Accounting and incurred by the Department of Health, the Department of Environmental Protection, the Department of Labor, the Department of the Treasury, and the county health departments in implementing the provisions of this act; and

(2) Repayment to the General Fund of any moneys appropriated by law in order to implement the provisions of this act.

d. The State Treasurer shall annually disburse the moneys in the fund for expenditures approved by the Director of the Division of Budget and Accounting pursuant to paragraph (1) of subsection c. of this section, but in no case in an amount to the several departments that is greater than the following percentages of the fund

available in any one year: the Department of Health, 40%; the Department of Environmental Protection, 20%; the county health departments, 15%; the Department of Labor, 15%; and the Department of the Treasury, 10%.

e. Beginning two years after the effective date of this act, the State Treasurer shall make an annual audit of the fund to determine the adequacy of moneys on deposit in the fund to support the implementation of the provisions of this act. If the State Treasurer, in consultation with the Department of Health, the Department of Environmental Protection, and the Department of Labor makes a determination that the revenues in the fund are sufficient to warrant a reduction in the fees imposed pursuant to this section for the ensuing year, he may reduce the amount of the fees imposed during that year by an amount warranted by the balance in the fund at the time of the determination.

3. This act shall take effect immediately except that subsection f. of section 1 of this act shall take effect one year after enactment.

Approved August 11, 1989.

CHAPTER 156

AN ACT concerning criminal background checks of employees in public schools, amending P.L.1986, c.116.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read as follows:

C.18A:6-7.1 Criminal record check.

1. A facility, center, school, or school system under the supervision of the Department of Education and board of education which ~~cares for, or is involved in~~ the education of children under the age of 18 shall not employ or contract for the services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils except individuals serving

as school bus drivers unless the employer has first determined consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. An individual employed by a board of education or a school bus contractor holding a contract with a board of education, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1). This section shall not apply to any individual who provides services on a voluntary basis. An individual other than a school bus driver shall be disqualified from employment or service under this act if the individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

- a. In New Jersey, any crime or disorderly persons offense:
 - (1) bearing upon or involving sexual offense or child molestation as set forth in N.J.S.2C:14-1 et seq.; or
 - (2) endangering the welfare of children or incompetents, as set forth in N.J.S.2C:24-4 and N.J.S.2C:24-7; or
- b. A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a "controlled dangerous substance" as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.); or
- c.
 - (1) A crime or offense involving the use of force or the threat of force to or upon a person or property including: armed robbery, aggravated assault, kidnapping, arson, manslaughter and murder; or
 - (2) A simple assault involving the use of force which results in bodily injury; or
- d. In any other state or jurisdiction, a conviction involving conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in this section of this act.
- e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act if the individual has affirmatively demonstrated to the Commissioner of Education clear and convinc-

ing evidence of his or her rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

- (1) The nature and responsibility of the position which the convicted individual would hold;
- (2) The nature and seriousness of the offense;
- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense;
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

2. This act shall take effect immediately.

Approved August 11, 1989.

CHAPTER 157

AN ACT providing for the township and village forms of government, repealing parts of the statutory law, amending N.J.S.40A:9-136 and adding chapter 63 of Title 40A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1.

TITLE 40A CHAPTER 63 TOWNSHIPS

40A:63-1. Incorporation
40A:63-2. Elected Officers

40A:63-3.	Organization of Township Committee
40A:63-4.	General Powers
40A:63-5.	Powers of the Mayor
40A:63-6.	Powers of the Committee
40A:63-7.	Miscellaneous
40A:63-8.	Villages
40A:63-9.	Statutes Repealed

40A:63-1. Incorporation.

a. The inhabitants of each of the several townships are hereby continued as a body politic and corporate in law as heretofore constituted and established and shall be known by the name of "the township of , in the county of " (as the case may be), and the boundaries of the several townships shall be and remain as heretofore established by law.

b. No suit, proceeding or instrument shall abate or anywise be affected by any changes in the corporate name of the township.

c. Each township, governed by the laws pertaining to the township form of government, shall have full power to sue and be sued and have corporate seal.

(Source: R.S.40:142-1 and New.)

40A:63-2. Elected Officers.

a. (1) The elected officers of every township shall be the members of the township committee, as hereinafter prescribed;

(2) All elected officers shall be residents of the township and their terms of office shall begin on January 1 next succeeding their election. No township officer shall hold over in his office after the expiration of the term for which he was elected; and

(3) A plurality of votes shall be sufficient to elect any township officer.

b. (1) The township committee shall consist of three or five members elected at large and who shall hold office for a term of three years;

(2) In each township:

(a) If the committee is to consist of three members, then the terms shall be arranged, by lot if necessary, so that there will be an election of one member of the committee every year; or

(b) If the committee is to consist of five members, then the terms shall be arranged, by lot if necessary, so that no more than two members of the committee will be elected in any one year, and

(3) Notwithstanding the provisions of paragraph (1) of subsection b. of this section, a township that has been divided into wards prior to the effective date of this act shall continue to be so divided into wards for as long as the referendum establishing the wards remains in effect. The members of the township committee and the member at large shall be elected as hereinafter provided for.

c. The annual township election for members of the township committee shall be held at the same time and places as for the general election.

(Source: R.S.40:143-1, R.S.40:144-14, R.S.40:145-1, R.S.40:145-2, R.S.40:146-1 and New.)

40A:63-3. Organization of the Township Committee.

a. The township committee shall consist of three or five members who shall hold office for a term of three years.

b. Notwithstanding the provisions set out in subsection a. of this section, a township that has been divided into wards prior to the effective date of this act shall continue to elect the members of the township committee from wards as heretofore established by referendum of the voters of said township. Also, one member of the township committee shall be elected at large and, by virtue of such designation, shall be known as the mayor of such township. The township committee may, by ordinance, not less than 60 days before any general election, call for a referendum of the legal voters to decide whether or not to abolish the ward system of representation and return to election of the township committee at large.

c. The legal voters of any township may elect to increase or decrease the membership of the township committee of the township either to three or five members.

The township committee shall order an election on the proposition, to be held at the next general election, whenever a petition is presented to the township clerk by the legal voters of the township in the number of at least fifteen per centum (15%) of the votes cast in the township at the last election in which members of the General Assembly were elected. The proposition shall not be submitted more than once in any three year period.

The notice, advertisement and conduct of the election shall be the same as for officers voted at any general election.

The proposition shall be submitted to the voters at the election in substantially the following form:

“Shall the membership of the township committee of (insert name of township) be (insert ‘increased’ or ‘decreased’) from (insert current number) to (insert proposed number) members?”

A canvass and return of the vote shall be made in the same manner as for officers voted for at any general election and a majority of all the votes cast in favor of the proposition shall be sufficient to make the change.

d. When the legal voters shall have voted to increase or decrease the membership of the township committee, as provided for in subsection c. of this section, the increase or decrease shall take effect for the next general election. At that election:

(1) If two additional committee members are to be elected, then one shall be elected for a term of two years and one for a term of three years; or

(2) If the membership of the township committee is to decrease by two members, then the terms of all committee members currently serving on the date of the election at which the decrease was adopted, and all committee members elected at that election, shall terminate on December 31 next following the next general election. At the next general election, one committee member shall be elected for a term of one year, one for a term of two years and one for a term of three years.

e. The township committee shall hold an annual meeting on the first day of January at 12 o'clock noon, or during the first seven days of January in any year.

f. At their annual meeting, the committee shall have the power and authority to elect one of their number as chairman of the committee, who shall preside at all meetings of the township committee and who shall be known as the mayor of the township. The mayor shall have no additional authority by virtue of such designation, except as otherwise provided by law or this act.

g. A majority of the committee shall constitute a quorum for the

transaction of business. A majority of all the members of the committee shall be required to vote in the affirmative to pass any ordinance.

h. The committee may, at its annual meeting, establish for their members such subordinate committees as will assist them for the ensuing year.

i. No officer, who has obtained tenure by any provision of any section herein repealed by section 40A:63-9 of this act, shall be affected in any way by the repeal.

(Source: R.S.40:146-3, R.S.40:146-13.1 and New.)

40A:63-4. General Powers.

Every township, governed by the township form of government pursuant to this act, shall, subject to the provisions of this act or other general law, have full power to exercise all powers of local government in such manner as its committee may determine.

(Source: New.)

40A:63-5. Powers of the Mayor.

a. The mayor shall be the chairman of the township committee and head of the municipal government. In those townships divided into wards the mayor shall be the member of the township committee elected at large.

b. The mayor shall have all those powers placed in the mayor by general law.

c. The mayor shall preside at meetings of the committee and shall have the right to debate and vote on all questions before the committee.

(Source: New.)

40A:63-6. Powers of the Committee.

a. The committee shall be the legislative body of the municipality.

b. The committee may subject to general law and the provisions of this act:

(1) pass, adopt, amend and repeal any ordinance or, where permitted, any resolution for any purpose required for the government of the municipality or for the accomplishment of any public purpose for which the municipality is authorized to act under general law;

(2) control and regulate the finances of the municipality and raise money by borrowing and taxation;

(3) create such offices and positions as they deem necessary. The officers appointed thereto shall perform the duties required by law and the ordinances of the committee. Other than the township attorney, engineer, building inspector, the clerk, tax collector and tax assessor who shall serve for terms as provided in Chapter 9 of Title 40A of the New Jersey Statutes, these officers shall serve at the pleasure of the committee;

(4) investigate any activity of the municipality; and

(5) remove any officer of the municipality, other than those officers excepted by law, for cause.

c. The committee shall have all the executive responsibilities of the municipality not placed, by general law or this act, in the office of the mayor.

(Source: R.S.40:145-13 and New.)

40A:63-7. Miscellaneous.

a. The township committee may, by ordinance, delegate all or a portion of the executive responsibilities of the municipality to an administrator, who shall be appointed pursuant to chapter 9 of Title 40A of the New Jersey Statutes (40A:9-136).

b. The township committee may, by ordinance, adopt an administrative code. The administrative code shall restate the major provisions of the township's charter and the general law supplementing the charter. The administrative code shall set forth the manner in which the committee shall perform its duties. If the committee organizes itself into standing committees or if the committee members serve as heads of departments with administrative control over said departments, the administrative code shall specify the powers and duties of such committees or department heads and the manner in which they are appointed. The administrative code shall set forth the titles of the principal officers, how the officers are appointed, how they are organized into departments, boards, commissions and other agencies; whom they supervise; by whom they are supervised; what powers they have and what procedure should be followed to carry on the activities of the township government. The administrative code shall not grant any power or authority, nor authorize any procedure, unless such power, authority or procedure is authorized

implicitly by the wording of the statute or derived reasonably by implication therefrom.

c. The assets and liabilities of any board, commission or district created pursuant to the statutes repealed in section 40A:63-9 of this act shall be transferred to the municipality.

d. The township committee may create such advisory councils to the municipality as they may choose, including councils for the functions absorbed by them of any heretofore existing boards, commissions or districts.

(Source: New.)

40A:63-8. Villages.

a. Any village heretofore incorporated under, or which shall have heretofore adopted the provisions of the act entitled "An act for the formation and government of villages", approved the 23rd day of February, 1891, or which shall hereafter be governed by the provisions of this act; provided, however, that the provisions of this act shall not affect the provisions of any special charter granted to a village by the Legislature.

b. Every village, governed by the laws pertaining to the village form of government, shall operate and transact all of its business according to the laws pertaining to the township form of government as prescribed in this act (N.J.S.40A:63-1 et seq.) and general law, except as provided for in this section (N.J.S.40A:63-8).

c. In this act and, where appropriate, in general law, whenever the term "township", "township committee" or "mayor" is used, read "village", "board of trustees" or "president of the board", respectively, for the village form of government.

d. The village board of trustees shall consist of five members who shall be elected at large and serve for a term of three years. Their terms shall be arranged, by lot if necessary, so that no more than two trustees shall be elected in any one year.

(Source: R.S.40:157-16, R.S.40:158-2 and New.)

40A:63-9. Statutes Repealed.

The following acts are hereby repealed:

R.S.40:95-1 to R.S.40:95-6

R.S.40:96-1 to R.S.40:96-10

R.S.40:97-1 to R.S.40:97-8

P.L.1939, c.182, §1 (C.40:97-9)
R.S.40:98-1 to R.S.40:98-3
R.S.40:99-1
R.S.40:99-3
R.S.40:100-1 to R.S.40:100-7
R.S.40:101-1 to R.S.40:101-18
R.S.40:102-1 to R.S.40:102-9
R.S.40:142-1 to R.S.40:142-2
R.S.40:143-1 to R.S.40:143-3
R.S.40:144-1
P.L.1981, c.427, s.21 (C.40:144-1.1)
R.S.40:144-2 to R.S.40:144-6
R.S.40:144-11 to R.S.40:144-14
P.L.1948, c.437 (C.40:144-16 to 40:144-26)
R.S.40:145-1 to R.S.40:145-4
R.S.40:145-6 to R.S.40:145-7
R.S.40:145-9 to R.S.40:145-10
R.S.40:145-12 to R.S.40:145-13
P.L.1950, c.23 §§1-2 (C.40:145-13.1 to 40:145-13.2)
R.S.40:145-14 to R.S.40:145-18
R.S.40:145-29 to R.S.40:145-31
P.L.1948, c.309 (C.40:145-32)
P.L.1970, c.281 §1 (C.40:145-33)
R.S.40:146-1 to R.S.40:146-3
R.S.40:146-13
P.L.1938, c.65, §1 (C.40:146-13.1)
R.S.40:146-21 to R.S.40:146-26
P.L.1939, c.167, §§1-3 (C.40:146-27 to 40:146-29)
R.S.40:147-1 to R.S.40:147-2
R.S.40:148-1 to R.S.40:148-3
R.S.40:148-5 to R.S.40:148-10
R.S.40:149-1
P.L.1966, c.288, §§1-2 (C.40:149-3.2 to 40:149-3.3)
R.S.40:150-2 to R.S.40:150-5
R.S.40:152-1 to R.S.40:152-4
R.S.40:153-1 to R.S.40:153-35
P.L.1947, c.49, §§1-8 (C.40:153-36 to 40:153-43)
R.S.40:155-1 to R.S.40:155-11
R.S.40:157-16
R.S.40:158-1 to R.S.40:158-2
R.S.40:158-4 to R.S.40:158-7
R.S.40:159-1 to R.S.40:159-2
R.S.40:161-1 to R.S.40:161-6

P.L.1946, c.76, §§1-2 (C.40:162A-1 to 40:162A-2)

R.S.40:163-1

N.J.S.40A:9-153.1 to N.J.S.40A:9-153.2

N.J.S.40A:14-101 to N.J.S.40A:14-103

N.J.S.40A:18-1 to N.J.S.40A:18-64

L.1892, c.175

L.1930, c.96

L.1935, c.135

2. N.J.S.40A:9-136 is amended to read as follows:

Administrator; powers and duties.

40A:9-136. The governing body of any municipality, by ordinance, may create the office of municipal administrator and delegate to him all or a portion of the executive responsibilities of the municipality. He shall receive such compensation as the ordinance creating such office shall provide and as from time to time may otherwise be directed by the governing body by ordinance. Such ordinance may provide that a person appointed to the office of municipal administrator need not be a resident of the municipality.

The position of joint administrator may be established where two or more municipalities find it appropriate to do so.

3. This act shall take effect January 1, 1990.

Approved August 11, 1989.

CHAPTER 158

AN ACT concerning the authorization by counties of low-interest farm loan programs, and amending the title and body of P.L.1987, c.34.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. The title of P.L.1987, c.34 is amended to read as follows:

Title amended.

An Act authorizing counties to establish a low-interest farm loan program and to issue bonds or appropriate general revenues to fund the program, and supplementing chapter 23 of Title 40 of the Revised Statutes.

2. Section 2 of P.L.1987, c.34 (C.40:23-12.2) is amended to read as follows:

C.40:23-12.2 Farm loan program.

2. The governing body of any county may, by ordinance or resolution, establish a low-interest loan program for the purpose of assisting persons in purchasing farmland to be kept in continuous use as farmland, in accordance with criteria developed by a County Agriculture Development Board established under section 7 of P.L.1983, c.32 (C.4:1C-14).

3. Section 3 of P.L.1987, c.34 (C.40:23-12.3) is amended to read as follows:

C.40:23-12.3 Bonds authorized.

3. For the purpose of funding a farm loan program authorized pursuant to section 2 of this act, the county is authorized, by bond ordinance, to incur indebtedness, borrow money, and authorize and issue negotiable obligations in an amount not to exceed \$5,000,000.00 in any five-year period, or to appropriate general revenues of the county, or both. All the provisions of the "Local Bond Law" (N.J.S.40A:2-1 et seq.) not in conflict with this act shall be complied with by the county in adopting its bond ordinances.

4. This act shall take effect immediately.

Approved August 11, 1989.

CHAPTER 159

AN ACT concerning local public contracts and amending P.L.1971, c.198.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to read as follows:

C.40A:11-5 Exceptions.

5. Exceptions. Any purchase, contract or agreement of the character described in section 4 of this act may be made, negotiated or awarded by the governing body without public advertising for bids and bidding therefor if

(1) The subject matter thereof consists of

(a)(i) Professional services. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in a newspaper authorized by law to publish its legal advertisements, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the clerk of the county or municipality, or, in the case of a contracting unit created by more than one county or municipality, of the counties or municipalities creating such contracting unit; or (ii) Extraordinary unspecifiable services. The application of this exception shall be construed narrowly in favor of open competitive bidding, where possible, and the Division of Local Government Services is authorized to adopt and promulgate rules and regulations limiting the use of this exception in accordance with the intention herein expressed. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed, in the manner set forth in subsection (1)(a)(i) of this section, a brief notice of the award of such contract;

(b) The doing of any work by employees of the contracting unit;

(c) The printing of legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party;

(d) The furnishing of a tax map or maps for the contracting party;

(e) The purchase of perishable foods as a subsistence supply;

(f) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged or exacted, filed with said board;

(g) The acquisition, subject to prior approval of the Attorney General, of special equipment for confidential investigation;

(h) The printing of bonds and documents necessary to the issuance and sale thereof by a contracting unit;

(i) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such service, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

- (j) The publishing of legal notices in newspapers as required by law;
- (k) The acquisition of artifacts or other items of unique intrinsic, artistic or historical character;
- (l) Election expenses;
- (m) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;
- (n) The doing of any work by handicapped persons employed by a sheltered workshop;
- (o) The provision of any service or the furnishing of materials including those of a commercial nature, attendant upon the operation of a restaurant by any nonprofit, duly incorporated, historical society at or on any historical preservation site;
- (p) Homemaker—home health services performed by voluntary, nonprofit agencies;
- (q) The purchase of materials and services for a law library established pursuant to R.S.40:33-14, including books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, copyright and patent materials, maps, charts, globes, sound recordings, slides, films, filmscripts, video and magnetic tapes, and other audiovisual, printed, or published material of a similar nature; necessary binding or rebinding of law library materials; and specialized library services;
- (r) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act" (P.L.1975, c.217; C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;
- (s) The marketing of recyclable materials recovered through a recycling program, or the marketing of any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery program, including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products; or
- (t) Emergency medical services provided by a hospital to the residents of a municipality or county, provided that: (a) such exception be allowed only after the governing body determines that the emergency services are available only from one provider; and (b) if

the contract is awarded without advertising for bids or bidding the governing body shall in each instance state supporting reasons for its action in a resolution awarding the contract and cause to be printed once in a newspaper authorized by law to publish its legal advertisements a brief notice stating the nature, duration, service, and amount of the contract; and (c) the contract shall be kept on file for public inspection in the office of the clerk of the municipality.

(2) It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority thereof and any other state or subdivision thereof.

(3) The contracting agent has advertised for bids pursuant to section 4 on two occasions and (a) has received no bids on both occasions in response to its advertisement, or (b) the governing body has rejected such bids on two occasions because the contracting agent has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the contracting agent prior to the advertising therefor, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence; any such contract or agreement may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract or agreement; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent materials or supplies, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the contracting unit is located, or any municipality in close proximity to the contracting unit;

(ii) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of this act; and

(iii) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of this act, shall be stated in the resolution awarding such contract or agreement; provided further, however, that if on the second occasion the bids received are

rejected as unreasonable as to price, the contracting agent shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each such bidder a reasonable opportunity to negotiate, but the governing body shall not award such contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible supplier, and is a reasonable price for such work, materials, supplies or services.

Whenever a contracting unit shall determine that a bid was not arrived at independently in open competition pursuant to subsection (3) of this section it shall thereupon notify the county prosecutor of the county in which the contracting unit is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

2. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to read as follows:

C.40A:11-15 Duration of certain contracts.

15. Duration of certain contracts. All purchases, contracts or agreements for the performing of work or the furnishing of materials, supplies or services shall be made for a period not to exceed 12 consecutive months, except that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of:

(a) Fuel for heating purposes, for any term not exceeding in the aggregate, two years;

(b) Fuel or oil for use of airplanes, automobiles, motor vehicles or equipment for any term not exceeding in the aggregate, two years;

(c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;

(2) (Deleted by amendment; P.L.1977, c.53.)

(3) The collection and disposal of garbage and refuse, and the barging and disposal of sewage sludge, for any term not exceeding in the aggregate, five years;

(4) The recycling of solid waste, including the collection of methane gas from a sanitary landfill facility, for any term not exceeding 25 years, when such contract is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with the approval of the Division of Local Government Services and the Department of Environmental Protection. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

(5) Data processing service, for any term of not more than three years;

(6) Insurance, for any term of not more than three years;

(7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed three years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities for a term not exceeding five years;

(9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services for any term not exceeding three years;

(11) On-site inspections undertaken by private agencies pursuant

to the "State Uniform Construction Code Act" (P.L.1975, c.217; C.52:27D-119 et seq.) for any term of not more than three years;

(12) The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 10 years; provided, however, that such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the Department of Energy establishing a methodology for computing energy cost savings;

(13) The performance of work or services or the furnishing of materials or supplies for the purpose of elevator maintenance for any term not exceeding three years;

(14) Leasing or servicing of electronic communications equipment for a period not to exceed five years; provided, however, such contract shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed seven years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et seq.). For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water

for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection; and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the facility is in conformance with a solid waste management

plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et seq.). For the purposes of this subsection, "wastewater treatment services" means any service provided by a wastewater treatment system, and "wastewater treatment system" means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of materials or services for the purpose of lighting public streets, for a term not to exceed five years, provided that the rates, fares, tariffs or charges for the supplying of electricity for that purpose are approved by the Board of Public Utilities;

(21) In the case of a contracting unit which is a county or municipality, the provision of emergency medical services by a hospital to residents of a municipality or county as appropriate for a term not to exceed five years.

All multi-year leases and contracts entered into pursuant to this section, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of Public Utilities, contracts involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, con-

struction contracts authorized pursuant to subsection (9) above, contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to subsection (16) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

3. This act shall take effect immediately.

Approved August 11, 1989.

CHAPTER 160

AN ACT permitting an increase in the salaries of superintendents of elections, commissioners of registration and members of county boards of elections, and amending R.S.19:32-1, R.S.19:32-2, R.S.19:45-7 and P.L.1947, c.167.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.19:32-1 is amended to read as follows:

Establishment of office; appointment by Governor with advice and consent of Senate; term; salary; vacancy.

19:32-1. The office of superintendent of elections in counties of the first class in which such office has previously been established is continued, and in those counties of the first class in which such office has not been previously established, is established. The offices shall be filled by some suitable persons who shall be nominated by the Governor with the advice and consent of the Senate and who shall

hold office for the term of five years from the date of appointment and until their successors are appointed and have qualified. Each superintendent shall receive a salary of not less than \$7,500 or more than \$25,000 per annum, as the governing body of such county shall determine, to be paid by the county treasurer. The persons so appointed shall have their offices in the counties for which they are appointed. Vacancies shall be filled in the same manner as original appointments, but shall be for the unexpired terms only. Any person filling a vacancy shall be from the same party as the original appointee. The annual salary of each deputy superintendent shall be 90% of what the superintendent receives for performing the duties of superintendent of elections and commissioner of registration.

2. R.S.19:32-2 is amended to read as follows:

Deputy; clerk; secretary and other assistants; civil service; salaries; expenses.

19:32-2. Except as provided in section 2 of P.L.1982, c.46 (C.19:32-1.2), each superintendent may appoint a chief deputy, a chief clerk, a secretary, such personnel as is authorized under R.S.19:48-6, and any other assistants he considers necessary to carry out the provisions of this Title, and, except as hereinafter provided, may remove the same whenever he deems it necessary and all persons so appointed, by superintendents of elections in counties of the first class having more than 850,000 inhabitants, according to the latest federal census taken in a year ending in zero, to serve for terms of more than six months in any one year, shall be in the classified service of the civil service and shall be appointed in accordance with and shall be subject to the provisions of Title 11A, Civil Service, but all other persons so appointed shall not be subject to any of the provisions of Title 11A, Civil Service, but shall be in the unclassified service. All persons appointed by the commissioner of registration in counties of the first class having more than 600,000, but less than 850,000 inhabitants, according to the latest federal census taken in a year ending in zero, to serve for terms of more than six months in any one year, other than the chief deputy and chief clerk and confidential secretary and chief custodian, shall be in the classified service of the civil service and shall be appointed, and hold their position, in accordance with the provisions of Title 11A, Civil Service, but all other persons so appointed shall not be subject to any of the provisions of Title 11A, Civil Service, but shall be in the unclassified service. Each superintendent shall fix the salaries of the persons so appointed and such salaries certified to and approved under his hand shall be paid semimonthly by the county treasurer of the county in which such persons are so engaged. All other necessary expenses

incurred in carrying out the provisions of this Title, when certified to and approved by the superintendent, shall be paid by the county treasurer of the county in which the superintendent shall maintain his office; provided, however, that all necessary expenses incurred by the commissioner of registration, the superintendent of elections, and the custodian of voting machines in the counties of the first class for the proper performance of all of his duties of all his offices as set forth in Title 19, shall not exceed, in the aggregate, the sum of \$1,500,000.00 per annum.

3. Section 1 of P.L.1947, c.167 (C.19:32-26) is amended to read as follows:

C.19:32-26 Second class counties; establishment of office of superintendent of elections; appointment; salary; term; vacancies.

1. In any county of the second class and in any county of the fifth class, the governing body may establish, by ordinance or resolution, as appropriate, the office of superintendent of elections for the county, and said office when once established shall not be altered or abolished.

The governing body shall file a certified copy of such ordinance or resolution, attested by the chief elected executive officer or director of the board of freeholders, if appropriate and clerk of the board, in the office of the Secretary of State within 10 days after adoption, and the ordinance or resolution shall take effect at the expiration of 30 days after the next primary election for the general election, or the next general election, after adoption whichever shall occur first.

The office so established shall be filled by some suitable person who shall be nominated by the Governor with the advice and consent of the Senate for a term of five years from the date of his appointment and until his successor is appointed and shall have qualified. In the event that no such appointment to such office is made within 30 days following the taking effect of the ordinance or resolution, heretofore or hereafter adopted, of the governing body of the county, as herein provided, then the governing body of the county shall appoint some suitable person to fill such office for a term of five years from the date of appointment and until the successor of such person is in the same manner appointed and shall have qualified. The governing body shall file notice of such appointment in the office of the Secretary of State.

Each superintendent so appointed in a county of the fifth class shall receive a salary of not less than \$4,000 nor more than \$8,000 per annum and each superintendent so appointed in a county of the

second class shall receive a salary in such amount, not less than \$4,000 per annum, as shall be determined by the governing body of the county; such salaries shall be paid by the county treasurer and the superintendent shall have his office in the county for which he is appointed.

Any vacancy occurring in such office of superintendent of elections shall be filled in the same manner as the original appointment to such office was made, but for the unexpired term.

4. R.S.19:45-7 is amended to read as follows:

Members of county boards; commissioner of registration; compensation.

19:45-7. The compensation of the members of the several county boards shall be no less than the minimum salary and no more than the maximum salary as follows:

County Population	Minimum Salary	Maximum Salary
Over 550,000	\$8,700	\$15,600
300,000 to 550,000	\$6,000	\$13,000
150,000 to 300,000	\$4,500	\$11,000
120,000 to 150,000	\$3,700	\$10,000
Under 120,000	\$3,200	\$ 9,500

provided, however, that any increases herein granted shall be effected only upon the approval of the governing body in the county affected.

The compensation fixed and determined under any of the foregoing classifications shall include all services rendered by any county board in conducting all elections, and in connection with any recount or recheck after any such election.

The members of the county board in counties other than counties of the first class and in counties of the first class not having a superintendent of elections who shall be elected as chairman and secretary thereof and who shall perform the duties of chairman and secretary thereof shall each receive an additional compensation of one-half of the compensation of the individual members of the board.

The commissioner of registration in a county of the first class having a superintendent of elections shall receive not less than \$10,000 nor more than \$25,000, as shall be determined by the governing body, for services performed as such commissioner of registration, and the commissioner of registration in a county of the second class having a superintendent of elections shall receive not less than \$2,500

nor more than \$5,000 per annum for services performed as such commissioner of registration, and for such services performed by a commissioner of registration in a county not having a superintendent of elections additional compensation shall be paid to such commissioner in an amount equal to 50% of his salary as member and secretary of the county board. In counties of the second class and in counties of the first class not having a superintendent of elections where a member of the county board serves as commissioner of registration, he shall receive no additional compensation for the performance of his duties as such commissioner unless he shall devote his full time to the performance of his duties as member of the county board, secretary thereof, and commissioner of registration. "Full time" as here used means such time as is duly required of employees in the office of the county board. Notwithstanding the above, the commissioner of registration in a county having a superintendent of elections, upon the approval of the governing body of the county, shall receive a salary not less than the maximum which the secretary of a county board of elections in a county of the same class, not having a superintendent of elections, would receive for performing the duties of secretary and commissioner of registration. This minimum does not reduce the current base salary for any superintendent who also serves as commissioner of registration.

5. This act shall take effect immediately.

Approved August 11, 1989.

CHAPTER 161

AN ACT revising the penalties for certain violations of the State's industrial home work requirements and amending P.L.1941, c.308.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 19 of P.L.1941, c.308 (C.34:6-136.19) is amended to read as follows:

C.34:6-136.19 Penalties.

19. Penalties. Any employer or person who: (1) Directly or indirectly in any way, distributes, delivers or causes to be distributed or delivered, or sells or causes to be sold, articles or materials for

industrial home work in violation of any provision of this act or of any rule, regulation or order issued thereunder; or (2) Violates or fails to comply with any provision of this act or any rule, regulation or order issued thereunder; or (3) Does not possess a valid employer's permit issued by the commissioner pursuant to section 7 of this act or fails to comply with any provision or condition of that permit; or (4) Refuses to allow the commissioner or his authorized representative to enter his place of business or other place for the purpose of investigating in the enforcement of this act, and of inspecting any records required to be kept by section 10 of this act; or (5) Willfully makes a false statement or representation in order to lower the amount of fees due from him under this act; or (6) Makes any deduction from the wages or salary of a home worker in order to pay any portion of a payment which the employer or person is required to make by this act; shall be guilty of a disorderly persons offense. If an employer or person knowingly violates this act or if an employer or person commits a second violation or multiple violation of this act, that employer or person shall be guilty of a crime of the fourth degree. Each day a violation is continued and each home worker engaged in industrial home work directly or indirectly for or in behalf of the employer or person in violation of any provision of this act or any rule, regulation or order issued thereunder shall be considered a separate offense.

2. This act shall take effect immediately.

Approved August 11, 1989.

CHAPTER 162

AN ACT concerning certain veterans' facilities and the veterans' cemetery in this State, supplementing Title 38A of the New Jersey Statutes and repealing sections 1 through 16 of P.L.1971, c.344 and section 19 of P.L.1987, c.444.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.38A:3-6.3 Definitions.

1. As used in this act, unless otherwise indicated by the context:
 - a. "Adjutant General" means the Adjutant General of the Department of Military and Veterans' Affairs.

b. "Advisory council" means the advisory council of a veterans' facility or of the veterans' cemetery.

c. "Member" means a person admitted to and receiving care in a veterans' facility.

d. "Veteran" means a person who has been honorably discharged from the active military service of the United States.

e. "Veterans' facility" means any home, institution, hospital, or part thereof, the admission to which is under the jurisdiction of the Department of Military and Veterans' Affairs.

C.38A:3-6.4 Powers of the Adjutant General.

2. Subject to the provisions of this act, the Adjutant General of the Department of Military and Veterans' Affairs is authorized, directed and empowered to take such actions, and to issue such reasonable rules and regulations, as may be necessary for carrying out the purposes of this act, including specifically the following:

a. To provide standards and procedures for application and determination of eligibility for admission to veterans' facilities;

b. To establish standards and methods for designating the veterans' facility in which an eligible person shall receive care and treatment consistent with available services and individual needs and circumstances;

c. To establish standards of care, treatment and discipline governing the relationships between the veterans' facilities and persons admitted thereto;

d. To establish standards and procedures for determination and payment of such amounts, if any, which members shall be required to contribute toward the cost of care and treatment in accordance with their financial ability, basing such determination upon a formula of financial ability to pay promulgated annually, provided, however, that the amount so determined shall first be approved by the Director of the Division of Budget and Accounting in the Department of the Treasury;

e. To negotiate and enter into agreements or contracts with the Veterans Administration or any other appropriate State or federal agency, and to organize the work of the veterans' facilities, giving due regard to the opinion of the advisory councils, in any manner consistent with law to comply with the reasonable requirements of such State and federal agencies, in order to secure the maximum

financial assistance and services for carrying out the purposes of this act.

C.38A:3-6.5 Application for admission to veterans' facility.

3. All applications for admission to a veterans' facility shall be made to, and in the manner and form prescribed by, the Adjutant General. The applicant shall provide a statement that he will accept placement in the facility designated by the Adjutant General, and that he will abide by the rules, regulations and discipline of the facility to which admitted.

C.38A:3-6.6 Admission of persons without sufficient financial ability to veterans' facility.

4. The following persons, if they are without sufficient financial ability to provide for their support and necessary care in the community, may be admitted to a veterans' facility:

a. A disabled veteran who has been a resident of New Jersey for at least two years prior to the date of application;

b. The spouse of any person who has been admitted to a veterans' facility, provided that the spouse is not less than 50 years of age and has been married to such person for a period of not less than 10 years;

c. The surviving spouse of a person who died an honorable death while in the active military service of the United States, or who was a disabled veteran at the time of death, provided that the surviving spouse was the person's spouse at the time of the person's service or was married to the person not less than 10 years prior to the date of application and has not married since the person's death, and provided that the surviving spouse has been a resident of New Jersey for at least two years prior to the date of application; and

d. The parent of a person who was a resident of New Jersey at the time of entry into, and who died an honorable death in time of war or emergency while in, the active military service of the United States, provided that the parent has been a resident of New Jersey for at least two years prior to the date of application.

This section shall not be construed to prevent a veteran who actually served in a New Jersey military organization, and who is qualified for admission except for the required period of State residence, from being admitted to a veterans' facility, but preference shall be given to persons who have been residents of the State for a period of at least two years prior to application.

C.38A:3-6.7 Temporary admission of disabled veteran.

5. Any disabled veteran who is in distress may be admitted to a veterans' facility for a temporary period in accordance with rules and regulations promulgated by the Adjutant General.

C.38A:3-6.8 Benefits to admitted persons.

6. A person admitted to a veterans' facility shall be entitled to all of its benefits and be furnished with clothing, subsistence, medical and surgical attendance, necessary to promote his health and welfare in accordance with the rules and regulations of the Adjutant General.

C.38A:3-6.9 Removal of member from veterans' facility.

7. Any member may be removed from a veterans' facility on being restored to ability to promote his own support and welfare in the community, or for immorality, or for fraud or willful misrepresentation, or refusal to abide by the rules, regulations and discipline of the veterans' facility.

C.38A:3-6.10 Designation of State hospital as treatment unit for mentally ill veterans.

8. The Adjutant General may from time to time request that the Commissioner of Human Services designate any State hospital for the care of the mentally ill, or a part thereof, as a treatment unit for veterans who require such care and who are eligible for admission to a veterans' facility. Upon making such designation the Commissioner of Human Services shall cause to be filed with the Adjutant General and the Secretary of State a certificate setting forth the fact thereof, a description of the precise treatment unit so designated and its location.

C.38A:3-6.11 Requirements for admission of veteran to State treatment unit.

9. Admission of a veteran to a treatment unit as designated pursuant to section 8 of P.L.1989, c.162 (C.38A:3-6.10) shall require:

- a. A determination by the Department of Human Services that such veteran is mentally ill in accordance with the appropriate provisions of Title 30 of the Revised Statutes; and
- b. A determination by the Adjutant General that such veteran is eligible for admission to a veterans' facility.

A veteran may be admitted to such treatment unit upon voluntary application, commitment or transfer.

C.38A:3-6.12 Funds.

10. The Adjutant General is authorized and empowered to accept and receive funds from the United States Government or any agency thereof, and to accept and receive payments from all members, their

family, relatives and friends, towards the cost of care and treatment as provided in the rules and regulations pertaining thereto.

C.38A:3-6.13 Four advisory councils created.

11. There is created within the Division of Veterans' Administrative Services in the Department of Military and Veterans' Affairs four advisory councils to be known as:

a. The New Jersey Veterans' Memorial Home Advisory Council—Menlo Park;

b. The New Jersey Veterans' Memorial Home Advisory Council—Vineland;

c. The New Jersey Veterans' Memorial Home Advisory Council—Paramus; and

d. The New Jersey Veterans' Memorial Cemetery Advisory Council—Arneytown.

Each advisory council shall consist of seven members, at least five of whom are veterans, to be appointed by the Adjutant General with the approval of the Governor. The term of each council member, except for the initial members, shall be three years commencing on July 1 and ending on June 30 of the third year thereafter, and any vacancy shall be filled for the unexpired term only.

The initial membership of each veterans' facility advisory council, other than the New Jersey Veterans' Memorial Cemetery Advisory Council—Arneytown, shall include four of the persons serving on the effective date of this 1989 amendatory and supplementary act as members of the Veterans' Facilities Council. The New Jersey Veterans' Memorial Cemetery Advisory Council—Arneytown shall include three of the persons serving on the effective date of this 1989 amendatory and supplementary act as members of the Veterans' Facilities Council. All of the members who served originally on the Veterans' Facilities Council and who serve subsequently on an advisory council shall serve for the remainder of the term for which they had been appointed to the Veterans' Facilities Council. Additional and subsequent appointments shall be made in such manner that the terms of either two or three of the members of each advisory council shall expire on June 30 of each year.

The members of the advisory council shall receive no compensation for their services but shall be reimbursed for actual expenditures incurred in the performance of duty. They are subject to removal by the Adjutant General at any time for good and sufficient cause.

C.38A:3-6.14 Duties of advisory councils.

12. Subject to the provisions of this act and under general policies established by the Adjutant General, the advisory councils of the veterans' facilities shall:

- a. Recommend standards and procedures for application and termination of eligibility for admission to veterans' facilities;
- b. Recommend standards and methods for designating the veterans' facility in which an eligible person shall receive care and treatment consistent with available services and individual needs and circumstances;
- c. Recommend standards of care, treatment and discipline governing the relationships between the veterans' facilities and persons admitted thereto; and
- d. Recommend standards and procedures for determination and payment of amounts which members may be required to contribute toward the cost of care and treatment in accordance with their financial ability.

C.38A:3-6.15 Duties of Veterans' Memorial Cemetery Advisory Council—Arneytown.

13. Subject to the provisions of this act and under general policies established by the Adjutant General, the New Jersey Veterans' Memorial Cemetery Advisory Council—Arneytown shall:

- a. Recommend standards and procedures for application and termination of eligibility for interment in the veterans' cemetery; and
- b. Advise the Adjutant General regarding operating policies and procedures as they apply to veterans' family members, funeral directors, and the relationship of the veterans' cemetery with the other veterans' facilities.

C.38A:3-6.16 Unclaimed property.

14. Moneys, choses in action and effects deposited by a member in trust with the veterans' facility and unclaimed at the death of the member, dying intestate, shall be deemed to be the property of the veterans' facility. Such property shall be held in trust for three years following the death of the depositor, with power to invest the funds and to use the income for the benefit of the members as the advisory council of the veterans' facility and the Adjutant General may deem most advisable.

Upon claim made within three years following the death of the depositor and sustained by legal proof, the sufficiency of which shall be determined by the advisory council of the veterans' facility and the Adjutant General, such property shall be paid over to the claimant entitled thereto upon acknowledging, executing and delivering a proper release and discharge.

Such property remaining unclaimed three years after the death of its depositor shall be deemed to be the property of and subject to the absolute control and disposal of the veterans' facility, to be used for such purposes as the advisory council of the veterans' facility and the Adjutant General may deem most advisable.

C.38A:3-6.17 Functions, powers, duties transferred to Adjutant General.

15. All the functions, powers and duties of the Commissioner of Human Services in regard to the New Jersey Veterans' Memorial Home for Disabled Soldiers at Menlo Park or the New Jersey Memorial Home for Disabled Soldiers, Sailors, Marines and Their Wives and Widows at Vineland are hereby transferred to and vested in the Adjutant General.

C.38A:3-6.18 Reference to Adjutant General.

16. Whenever the term "Board of Managers of the New Jersey Memorial Home for Disabled Soldiers at Menlo Park" or the term "Board of Managers of the New Jersey Memorial Home for Disabled Soldiers, Sailors, Marines and Their Wives and Widows at Vineland" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Adjutant General.

Repealer.

17. Sections 1 through 16 of P.L.1971, c.344 (C.30:6AA-1 through 30:6AA-16) and section 19 of P.L.1987, c.444 are repealed.

18. This act shall take effect immediately.

Approved August 11, 1989.

CHAPTER 163

AN ACT creating a permanent commission to study the general corporate and business law and related statutes, prescribing its membership and duties and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.1:14-12 New Jersey Corporate and Business Law Study Commission.

1. a. There is created in the Legislative branch of State Government a permanent commission to be known as The New Jersey Corporate and Business Law Study Commission.

b. The commission shall consist of three members who are admitted to practice law in New Jersey, and who are distinguished in the field of corporate and business law to be appointed as follows: one member shall be appointed by the Governor; one by the President of the Senate; and one by the Speaker of the General Assembly. All members shall serve for a term of three years and shall be eligible for reappointment.

c. Vacancies shall be filled in the same manner as the original appointment, but for the unexpired term only.

d. The members of the commission shall serve without compensation, but shall be reimbursed for necessary expenses actually incurred in the performance of their duties under this act.

C.1:14-13 Organization.

2. The commission shall organize as soon after the appointment of its members as is practicable, shall choose a chairman from among its members and shall appoint a secretary who need not be a member of the commission.

C.1:14-14 Duties, powers.

3. a. It shall be the duty of the commission to study and review all aspects of the statutes, legislation and decisions of the courts in this State and other states relating to business entities, including business corporations and partnerships and the issuance of ownership interests or securities thereby. In addition the commission shall study and review all aspects of the law governing non-profit corporations in this State and other states.

b. The commission shall have the power to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it

may require and as may be available to it for its purposes, to hold public hearings from time to time, and to employ counsel, stenographic and clerical assistants and incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

C.1:14-15 Annual report; recommended legislation.

4. The commission shall file annually with the Governor and the Legislature a report containing its findings and recommendations, accompanying its report with any proposed legislation which it may desire to recommend for enactment.*

5. This act shall take effect immediately.

Approved August 11, 1989.

*Appropriation deleted by line-item veto of the Governor. See statement following.

Statement to Chapter 163
(Assembly Bill No. 3230 (First Reprint))

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I am appending to Assembly Bill No. 3230 (First Reprint) at the time of signing it my statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill would create a permanent legislative commission to be known as the "New Jersey Corporate and Business Law Study Commission" (hereinafter referred to as the "Commission"). The Commission would consist of three unsalaried members, one appointed by the Governor, one by the President of the Senate and one by the Speaker of the General Assembly. The purpose of the Commission would be to study and review all aspects of the statutes, legislation, and decisions of the courts of New Jersey and other states relating to business entities, including business corporations, nonprofit corporations, partnerships and the issuance of ownership interests and securities. The results of the Commission's findings would be compiled annually in report form and filed with the Governor and the Legislature. In addition, the Commission would submit any proposed legislation that it recommends for enactment. To assist the Commission in its task, \$50,000 would be appropriated from the General Fund.

I am aware of the generous contributions the Corporate Law Revision Commission has made to New Jersey, in particular, the recent amendments to Title 14A, "The New Jersey Business Corporations Act." Our State's corporate climate depends in substantial part on the quality of its business laws. The Commission's tireless work in updating and improving New Jersey's corporate code thus represents an important asset that will help to ensure the continued economic vitality of the State.

While I recognize that New Jersey needs to remain current in the ever changing business law area, and although I support the continued operation of the Commission, I cannot support the appropriation of \$50,000 to the Commission. Unfortunately, due to our present fiscal constraints, the State is unable to afford this appropriation at this time. Because I have been informed that the Commission could function in a meaningful, though more limited, fashion even without an appropriation, I have signed the bill making the Commission a permanent body into law, but have deleted the appropriation.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

Page 2, Section 5, Lines 17-18: Omit in entirety

Page 2, Section 6, Line 19: Omit "6" insert "5"

Respectfully,

Thomas H. Kean
Governor

CHAPTER 164

AN ACT authorizing an exemption from the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986," P.L.99-570 (49 U.S.C. § 2701 et seq.) for certain drivers and supplementing chapter 3 of Title 39 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.39:3-10j Findings, declaration.

1. The Legislature finds that:

a. On September 20, 1988, the Secretary of the United States Department of Transportation granted the states of this nation the authority to exempt certain drivers from the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986," P.L.99-570 (49 U.S.C. § 2701 et seq.).

b. The "Commercial Motor Vehicle Safety Act of 1986" requires a commercial driver's license for anyone who operates a vehicle that has a gross weight rating in excess of 26,000 pounds, carries 15 or more passengers or transports hazardous materials.

c. While that act's objectives to regulate and improve the traffic safety of the commercial trucking industry are laudable, it could have an unintended, and largely adverse, impact upon certain non-commercial drivers.

d. Unless the State of New Jersey, in accordance with the Secretary of the United States Department of Transportation's directive, exercises its exemption authority, certain drivers in volunteer fire companies and the New Jersey National Guard, and some farmers will be obligated to secure commercial driver's licenses under that act.

e. There appears to be no significant evidence that the drivers for volunteer fire companies and the New Jersey National Guard, and farmers operating farm vehicles and equipment in and about their regular agricultural activities pose or have created any safety hazards on the public highways which would warrant their being licensed under the provisions of the "Commercial Motor Vehicle Safety Act of 1986."

The Legislature, therefore, declares that it is altogether fitting and proper to authorize, in accordance with the directives issued by the Secretary of the United States Department of Transportation, that

the designated drivers of volunteer fire companies, the New Jersey National Guard and farmers operating farm vehicles and equipment in and about their regular agricultural activities be exempted from the licensing requirements set forth in the "Commercial Motor Vehicle Safety Act of 1986."

C.39:3-10k Exemption of fire companies, National Guard, farmers.

2. Unless otherwise required by federal law or regulation, and subject to any rules and regulation promulgated pursuant to the provisions of this act, no designated driver of a volunteer fire company or the New Jersey National Guard, or any farmer for the operation of a farm vehicle or equipment in and about his regular agricultural activities shall be subject to the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986," P.L.99-570 (49 U.S.C. § 2701 et seq.).

C.39:3-10l Rules, regulations.

3. The Director of the Division of Motor Vehicles in the Department of Law and Public Safety, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations, which are in accordance with the directive issued by the Secretary of the United States Department of Transportation on September 20, 1988, to effectuate the purposes of this act.

4. This act shall take effect immediately.

Approved August 11, 1989.

CHAPTER 165

AN ACT permitting the formation and operation of mutual State association holding companies and supplementing Title 17 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.17:12B-292 Definitions.

1. As used in this act:

a. "Beneficial owner"

(1) Includes any person who, directly or indirectly through any

contract, arrangement, understanding, relationship or otherwise, has or shares:

(a) Voting power which includes the power to vote, or to direct the voting of shares; or

(b) Investment power which includes the power to dispose, or to direct the disposition of shares;

(2) Includes any person who directly or indirectly creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement or device with the purpose or effect of divesting the person of beneficial ownership of shares or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade this act;

(3) Includes any person who has the right to acquire beneficial ownership of the shares as defined herein within 60 days, including, but not limited to, any right to acquire:

(a) Through the exercise of any option, warrant or right;

(b) Through the conversion of a security;

(c) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(d) Pursuant to the automatic termination of a trust, discretionary account or similar arrangement; except that, any person who acquires a security or power specified in subparagraph (a), (b), or (c) above, with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participation in any transaction having such effect or purpose, immediately upon the acquisition shall be deemed to be the beneficial owner of the shares which may be acquired through the exercise or conversion of such security or power. Any securities not outstanding which are subject to these options, warrants, rights, or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by the person but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other person;

(4) Does not include:

(a) Any member of a national securities exchange who holds shares directly or indirectly on behalf of another person solely because the member is the record holder of the securities and, pursuant to

the rules of the exchange, may direct the vote of the shares without instruction on other than contested matters or matters that may affect substantially the rights or privileges of the holders of these shares to be voted, but is otherwise precluded by the rules of the exchange from voting without instruction; or

(b) Any person who in the ordinary course of business is pledgee of securities under a written pledge agreement until the pledgee had taken all formal steps necessary which are required to declare a default and determines that the power to vote or direct a vote or to dispose or to direct the disposition of pledged shares will be exercised, provided that (i) the pledge agreement is bona fide and not entered into with the purpose or the effect of changing or influencing the control of the issuer, or in connection with any transaction having any such purpose or effect including any transaction subject to this act; and (ii) the pledge agreement prior to default does not grant to the pledgee: (A) the power to vote or to direct the vote of the pledged securities; or (B) the power to dispose or to direct the disposition of the pledged securities other than the grant of this power pursuant to a pledged agreement under which credit is extended subject to Regulation T of the Federal Reserve System, 12 C.F.R.220 et seq., and in which the pledgee is a broker or dealer registered under section 15 of the "Securities Exchange Act of 1934," 15 U.S.C. § 78o; or

(c) Any person engaged in business as an underwriter of securities who acquires shares through participation in good faith in a firm commitment underwriting of shares registered under the "Securities Act of 1933," 15 U.S.C. § 77a et seq., or under the "Securities Exchange Act of 1934," 15 U.S.C. § 78a et seq., until the expiration of 40 days after the date of the acquisition;

All securities of the same class beneficially owned by a person, regardless of the forms the beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by the person.

b. "Capital stock state association" means any state association chartered pursuant to the provisions of P.L.1974, c.137 (C.17:12B-244 et seq.).

c. "Capital stock state association holding company" means a state association holding company that has issued or intends to issue voting capital stock; and which controls one or more state associations located in this State or any other state.

d. "Commissioner" means the Commissioner of Banking.

e. "Control of a capital stock state association" includes:

(1) Owning, beneficially or otherwise, controlling, or having power to vote 25% or more of the outstanding shares (not including shares owned by a mutual state association holding company) of any class of voting securities of a capital stock state association, directly or indirectly, or acting through one or more persons;

(2) Controlling in any manner the election of a majority of the directors of a capital stock state association;

(3) Exercising or having the power to exercise directly or indirectly a controlling influence over the management or policies of a capital stock state association; or

(4) Conditioning in any manner the transfer of 25% or more of any class of voting securities (not including shares owned by a mutual state association holding company) of a capital stock state association;

"Control of a capital stock state association" does not include a director or officer of a capital stock state association acting in the capacity of performing his duties or responsibilities of office.

f. "Converted state association" means an organizing mutual state association which has converted to a capital stock state association pursuant to the provisions of P.L.1974, c.137 (C.17:12B-244 et seq.) subsequent to the formation of a mutual state association holding company.

g. "Department" means the Department of Banking.

h. "Insured institution" and "savings and loan holding company" shall have the respective meanings set forth in section 408(a) of the "National Housing Act," 12 U.S.C. § 1730a., except that the terms shall not include any institution that is insured by the Federal Deposit Insurance Corporation (FDIC). "Insured institutions" shall include federal savings banks, whose accounts are insured by the Federal Savings and Loan Insurance Corporation (FSLIC).

i. "Market maker" means any dealer acting in the capacity of a block positioner and any dealer who, with respect to the voting stock of a capital stock state association, holds himself out as being willing to buy and sell such stock for his own account on a regular and continuous basis.

j. "Mutual state association holding company" means a mutual state association holding company which has its principal office of

business in this State and which has been formed by an organizing mutual state association pursuant to sections 7 through 27 of this act.

k. "Organizing mutual state association" means a mutual state association which has its principal office of business in this State, the board of directors of which propose to form a mutual state association holding company pursuant to the provisions of this act.

l. "Person" means an individual, bank, corporation, savings bank, state association, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any form of entity.

m. "State association" shall mean any savings and loan association, building and loan association, or any corporation, however named, now or hereafter chartered pursuant to P.L.1963, c.144 (C.17:12B-1 et seq.).

n. "Subsidiary capital stock state association" means a capital stock state association which has been incorporated by the directors of a mutual state association holding company, a majority of the stock of which subsidiary capital stock state association is held by a mutual state association holding company.

o. "Voting power" means that a person has or shares, directly or indirectly, through any option, contract, arrangement, understanding, conversion right or relationship, or by acting jointly or in concert or otherwise, the power to vote, or to direct the voting of voting shares.

C.17:12B-293 Approval of commissioner needed to acquire more than 25% of voting shares.

2. No person shall, without the prior approval of the commissioner, acting directly or indirectly or through or in concert with one or more persons:

a. Obtain or exercise control of a capital stock state association; or

b. Acquire beneficial ownership or control of any voting shares of a capital stock state association, if, after the acquisition, the person would beneficially own or control more than 25% of the then-outstanding voting share of the capital stock state association.

C.17:12B-294 Application for approval; hearing; exemption limitations.

3. a. An application by a person for the approval of the commissioner to obtain control of a capital stock state association, or to

acquire beneficial ownership or control of more than 25% of the voting shares of a capital stock state association shall be made on a form provided by the commissioner. The commissioner shall give notice to the capital stock state association involved in the proposed transaction and shall send a copy of the application to the capital stock state association within five business days of receiving the application. The notice shall include the hearing date established pursuant to subsection b. of this section.

No later than 10 days after the date upon which a completed application is filed with the commissioner, the applicant shall cause to be published a notice of application for control of a capital stock state association. This publication shall be made in a newspaper of general circulation in the county in which the capital stock state association has its principal office. The notice shall include whatever information the commissioner, by regulation, deems to be necessary and appropriate.

b. The commissioner shall hold a hearing on the application within 60 days of receipt of the completed application, and shall notify the applicant as to the date of the hearing at the time the application is filed. The hearing shall be held in accordance with rules and regulations promulgated by the commissioner.

c. A person who has acquired beneficial ownership, or control or power to vote 25% or more of the voting shares of a capital stock state association is not subject to the prior approval requirements of subsections a. and b. of this section provided that:

(1) The person is a broker or dealer registered under section 15 of the "Securities Exchange Act of 1934," 15 U.S.C. § 78o; and

(2) The person has acquired beneficial ownership, or control or power to vote 25% or more of the stock in the ordinary course of his business as a market maker for the sole purpose of making a market in that stock. This exemption limitation is reduced by the person's beneficial ownership or control of outstanding voting shares of the capital stock state association which are held under the conditions of subsection a. of this section except that they represent less than 25% of the outstanding voting shares of the capital stock state associations; or

(3) The person has acquired beneficial ownership or control or power to vote shares in excess of those percentage amounts approved under the condition of subsection a. of this section but less than 25% of the stock in the ordinary course of his business as a market maker

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in that stock. This exemption limitation is reduced by the person's beneficial ownership or control of outstanding voting shares of the capital stock state association which are held under the condition of subsection a. of this section.

d. Notwithstanding subsection c. of this section, a person shall within 10 days file an application with the commissioner for approval to retain beneficial ownership or control of the stock if:

(1) The person at the time has beneficial ownership, control or power to vote 25% or more of the outstanding shares of the capital stock state association; and

(2) The person has determined that he no longer has acquired or holds the stock in the ordinary course of his business as a market maker for the sole purpose of making a market in that stock.

e. For the period beginning with the date on which a person becomes obligated to file an application pursuant to subsection d. of this section and ending on the date after the commissioner's approval is obtained, the person shall not:

(1) Vote or direct the voting of the securities which are no longer exempt under subsection c. of this section; or

(2) Acquire an additional beneficial ownership interest in voting stock of the capital stock state association nor of any person controlling the capital stock state association.

C.17:12B-295 Factors used in determining approval.

4. In determining whether to approve an acquisition of shares pursuant to section 2 of this act, the commissioner shall consider the following factors:

a. With respect to the applicant:

(1) The financial condition and the resources of the applicant;

(2) The competence, character, and banking experience of the applicant, including the applicant's record of compliance with laws and regulations;

(3) Whether the applicant has (i) employed any device, scheme or artifice to defraud; or (ii) obtained or will obtain any money or property by means of any untrue statement of a material fact or any omission of a material fact; or (iii) engaged in any act, transaction, practice or course of business which operates or would operate as a fraud or deceit upon the capital stock state association, the share-

holders of the capital stock state association, the depositors thereof, or the public at large; and

(4) The applicant's plans and intentions with respect to the operation of the capital stock state association.

b. With respect to the capital stock state association:

(1) The financial condition and prospects of the capital stock state association, which shall include consideration as to the sufficiency of current or projected capital positions, as well as the level of indebtedness of the capital stock state association before and after the acquisition;

(2) The convenience and needs of the depositors and the communities served by the capital stock state association; and

(3) The effect of the proposed acquisition on the safety and soundness of the capital stock state association.

c. Whether approval of the application would result in a person owning more shares than are permitted by the capital stock state association's charter or bylaws, in which case the commissioner shall not approve the application; except that this subsection shall not apply to an application for the acquisition of shares of a capital stock state association that the commissioner determines is in an unsafe or unsound condition.

In the event the commissioner grants approval of an acquisition of shares as described in subsection a. of this section, the approval shall apply only to the specific transaction set forth by the applicant in his application, and any subsequent acquisition which would further increase the applicant's beneficial ownership or control of the then-outstanding voting shares of the capital stock state association shall require the commissioner's prior approval in the same manner required under this act.

C.17:12B-296 Shares acquired in violation not counted; shares to be registered.

5. a. Any shares in excess of 25% of the outstanding voting shares of a capital stock state association which are acquired in violation of sections 2 through 4 of this act shall not be eligible to be voted and shall not be counted in determining the number of shares outstanding for the purpose of determining the number or percent of shares required for shareholder action.

b. All shares of stock in a capital stock state association shall be registered in the name of the true owner of the shares, and if held

as nominee or in trust or otherwise for the benefit of any other person, the person listed as registered owner shall disclose to the capital stock state association the names and addresses of all persons who hold a beneficial interest in the shares on written demand by the capital stock state association.

C.17:12B-297 Cease and desist orders; injunction; penalties.

6. a. Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice which constitutes a violation of sections 2 through 5 of this act or any regulations promulgated pursuant thereto, the commissioner may conduct an investigation and issue cease and desist orders if he deems it necessary. In addition to all other remedies, the commissioner may bring an action in the Superior Court, Law Division, on behalf of the State against any person or persons participating in or about to participate in a violation. In any court proceeding, the commissioner may apply for and shall be entitled to have issued the court's subpoena requiring the appearance of any defendant and defendant's employees or agents, and the production of documents, books and records as may be necessary for the hearing of the action. Upon a proper showing, the court may grant a permanent or preliminary injunction or temporary restraining order or may order the rescission of any sale, tender for sale, purchase or tender for purchase of equity securities determined to be unlawful under sections 2 through 5 of this act.

b. Whenever any person has engaged in or is about to engage in any act or practice which constitutes a violation of sections 2 through 5 of this act or any regulation or order issued thereunder, the capital stock state association or any record or beneficial owner of an equity security of the capital stock state association may bring an action to enjoin the person from continuing or doing any act in violation of this act. Upon a proper showing, the court may grant a permanent or preliminary injunction or temporary restraining order or may order the rescission of any sale, tender for sale, purchase or tender for purchase of equity securities determined to be unlawful under this act or under any regulation or order of the commissioner.

c.(1) In addition to any other penalties herein or otherwise provided by law, the commissioner may, upon notice and hearing, impose a penalty not exceeding \$10,000 for any violation of sections 2 through 5 of this act or of any rule or regulation promulgated thereto. The penalty shall be recovered by and in the name of the commissioner in a civil action by a summary proceeding under "the

penalty enforcement law," N.J.S.2A:58-1 et seq., in the Superior Court, Law Division. Where any violation of sections 2 through 5 of this act or of any regulation hereunder is of a continuing nature, each day during which the violation continues shall constitute an additional, separate and distinct offense, except during the time an appeal from the order or notice may be taken or is pending.

(2) Sections 2 through 6 of this act shall apply to all capital stock state associations organized pursuant to P.L.1974, c.137 (C.17:12B-244 et seq.) whether chartered prior to or after the enactment of this act. Any person who prior to the effective date of this act directly or indirectly, beneficially owned or controlled more than 25% of the outstanding voting shares of a capital stock state association may continue such ownership after the effective date of this act without approval of the commissioner. This act shall not be construed to limit the applicability of any law governing the acquisition of securities.

(3) Sections 2 through 6 of this act shall not apply to any merger of a capital stock state association with another capital stock state association or mutual state association. The provisions of P.L.1974, c.137 (C.17:12B-244 et seq.) and Article XIII of P.L.1963, c.144 (C.17:12B-198 et seq.) shall be the exclusive governing provisions.

(4) Notwithstanding any other law of this State, the provisions contained in sections 2 through 6 of this act shall also apply to any acquisition of voting shares of a state association or company which controls a state association by a state association or a state association holding company if, after the acquisition, the state association or state association holding company would beneficially own or control more than 25% of the outstanding voting shares of the state association or company which controls a state association. For the purpose of this paragraph (4), "state association" means any federally or State chartered capital stock association or mutual association having its principal office in this State; "State association holding company" means any company located in this State which controls a state association.

C.17:12B-298 Formation of mutual state association holding company.

7. a. After the board of directors of an organizing mutual state association has approved the formation of a mutual holding company by a 2/3 vote and adopted a resolution to that effect, the board of directors shall hold a meeting of the members of the mutual state association upon not less than 30 days' written notice to each member

by a mailing, postage prepaid, directed to the last address of each member as shown on the books of the association, which notice shall contain a statement of the time, place and purpose for which the meeting is called. The notice shall be accompanied by a proxy statement and proxy form in accordance with regulations promulgated by the commissioner;

b. At the meeting of the members of the organizing mutual state association as provided in subsection a. of this section, the members may, by the affirmative vote of at least a majority of the votes of the members of the organizing mutual state association present, either in person or by proxy, declare by resolution the determination to form a mutual state association holding company. A copy of the minutes of the proceedings of the meeting of the members shall be filed in the office of the commissioner within the time and in the form and manner as set forth in regulations promulgated by the commissioner.

c. After compliance with subsections a. and b. of this section, the board of directors of an organizing mutual state association may apply to the commissioner to form a mutual state association holding company which may be formed in accordance with either paragraph (1), (2), or (3) of this subsection.

(1) The board of directors of an organizing mutual state association may incorporate a mutual state association holding company pursuant to the provisions of section 8 of this act, and subsequently:

(a) Convert to a capital stock state association pursuant to section 26 of this act; or

(b) If the mutual state association holding company has formed a subsidiary capital stock state association pursuant to sections 16 through 24 of this act, either (i) merge with the subsidiary capital stock state association pursuant to section 25 of this act or (ii) sell or transfer its assets and liabilities to the subsidiary capital stock state association and dissolve pursuant to Article XVIII of P.L.1963, c.144 (C.17:12B-228 et seq.); or

(2) The board of directors of an organizing mutual state association may form a mutual state association holding company by:

(a) Incorporating a subsidiary capital stock state association pursuant to sections 16 through 24 of this act; and

(b) Transferring the substantial part of the organizing mutual state association's assets and liabilities, including all of its deposit

liabilities, to the subsidiary capital stock state association in return for a majority of the capital stock of the subsidiary capital stock state association in accordance with section 17 of this act. Capital deposits and surplus in an amount approved by the commissioner may be retained by the organizing mutual state association, which shall be deemed a mutual state association holding company, if it follows the procedures set forth in section 27 of this act; or

(3) The board of directors of an organizing mutual state association may form a mutual state association holding company by any other method of reorganization approved by the commissioner.

C.17:12B-299 Contents of certificate of incorporation.

8. a. The board of directors of the organizing mutual state association shall execute a certificate of incorporation for the mutual state association holding company stating:

(1) The name by which the mutual state association holding company shall be known;

(2) The street, street number, and municipality where the principal office of the mutual state association holding company is to be located;

(3) The names and addresses of the directors of the organizing mutual state association;

(4) The number of directors of the mutual state association holding company;

(5) The names of persons who are to act as directors of the mutual state association holding company, until their successors are elected and qualified;

(6) The amount of capital deposits and surplus which are to be transferred from the organizing mutual state association to the mutual state association holding company; and

(7) Any other provisions as the incorporators of the mutual state association holding company deem necessary, or as are required by the commissioner by regulation.

b. The certificate of incorporation of a mutual state association holding company shall provide for the retention of any interests of the respective members of the organizing mutual state association in the assets of the organizing mutual state association, according to a fair valuation, including assets which are proposed to be trans-

ferred from the organizing mutual state association to the mutual state association holding company.

c. The certificate of incorporation of the mutual state association holding company shall also provide that a liquidation account shall be established, on terms established or approved by the commissioner.

C.17:12B-300 Approval of charter.

9. If the commissioner determines that the establishment of a mutual state association holding company is in the best interests of the members of the organizing mutual state association, that the qualifications, experience and character of the proposed officers and directors of the mutual state association holding company are sufficient to result in the successful operation of the mutual state association holding company, and that the interest of the public will be served by the establishment of a mutual state association holding company, that the mutual state association holding company is adequately capitalized, and that the establishment of the mutual state association holding company otherwise meets the requirements of law, the commissioner may approve the charter.

C.17:12B-301 Powers of mutual state association holding company.

10. a. The general powers of the mutual state association holding company shall be those powers conferred on corporations pursuant to the provisions of N.J.S.14A:3-1, N.J.S.14A:3-2, N.J.S.14A:3-4, and N.J.S.14A:3-5. Mutual state association holding companies shall be subject to the requirements of chapter 4 of Title 14A of the New Jersey Statutes and Article V of P.L.1963, c.144 (C.17:12B-62 et seq.), to the extent that those requirements do not conflict with the provisions of this act.

b. In addition to other activities authorized by law for a mutual state association holding company, a mutual state association holding company may:

(1) With the prior approval of the commissioner, merge with or into, or consolidate with, another mutual state association holding company or capital stock state association holding company pursuant to this act;

(2) With the prior approval of the commissioner, incorporate a new subsidiary capital stock state association pursuant to the provisions of sections 16 through 24 of this act; except that paragraph (1) of subsection d. of section 17 of this act shall not apply to such subsidiary capital stock state association;

(3) With the prior approval of the commissioner, convert itself into a capital stock state association holding company, pursuant to applicable provisions of this act;

(4) Issue capital debentures, which shall be legal investments for banks, savings banks, savings and loan associations; and

(5) Exercise the powers or engage in the activities authorized for a bank holding company or state association holding company as the commissioner shall by regulation permit.

c. The commissioner may exercise any of the powers vested in him by Article XII of P.L.1963, c.144 (C.17:12B-177 et seq.) with respect to the affairs of the mutual state association holding company. The mutual state association holding company or capital stock state association holding company shall be subject to the requirements of subsection a. of section 2, section 3, and section 5 of P.L.1987, c.225 (C.17:12B-282, 17:12B-283, and 17:12B-285).

C.17:12B-302 Board of directors.

11. Every mutual state association holding company shall be managed by a board of not less than six nor more than 21 directors. Directors shall be elected by a plurality of the members of the board of directors of the mutual state association holding company at the annual meeting, for a term of up to three years, as provided in the bylaws. Each director shall serve for the term for which he is elected and until his successor is elected and has qualified. A vacancy on the board of directors may be filled by a plurality of the members of the board of directors for the remainder of the unexpired term. If the board fails to fill the vacancy within one year, the commissioner may do so. Elections of directors shall be certified by the board and shall be filed with the department within 15 days.

The board of directors shall hold an annual meeting within the first four months of each fiscal year, and other meetings at such times and so often as they shall deem necessary. The annual meeting shall be held at a location within the State. A majority of a quorum of the board of directors shall be necessary to transact the business of the board.

C.17:12B-303 Powers of board.

12. a. The board of directors of every mutual state association holding company shall have the power to make, amend and repeal bylaws not inconsistent with this act, providing for:

(1) The management of its property;

- (2) The regulation and government of its affairs;
- (3) The terms of office, manner of appointment, and the duties and powers of its officers and committees; and
- (4) Such other matters as the board from time to time deems advisable.

b. The bylaws may provide for and the board may elect an executive committee of the board, and other committees as the board may deem advisable. The executive committee may exercise all of the powers of the board, except that the executive committee may not:

- (1) Exercise its powers while a quorum of the board is actually convened for the conduct of business;
- (2) Declare a dividend or approve any other distribution to the parties in interest;
- (3) Make, alter, or repeal the bylaws of the holding company;
- (4) Elect or appoint any officer or director; or
- (5) Exercise any other power which this act specifically provides shall be exercised by at least a majority of all the directors.

The minutes of each meeting of the executive committee shall be presented to the board of directors at its next meeting following the meeting of the executive committee.

C.17:12B-304 Board officers; compensation.

13. At the first meeting of the board of directors of the mutual state association holding company following each annual meeting, the board may elect a chairman of the board, and shall elect a president, either of whom may be chief executive officer, or another officer whom it may designate to be the chief executive officer, all of whom shall be directors, and a secretary and a treasurer, neither of whom need be directors. Other officers of the mutual state association holding company may be appointed from time to time by the directors, as provided in the bylaws.

Reasonable compensation may be paid to directors of the mutual state association holding company for attendance at meetings of the board, or for service upon committees, or for other service rendered, and shall be fixed from time to time by a vote of a majority of the board. The commissioner may direct that the amount of compensation paid to directors of any mutual state association holding company be reduced if in his judgment it is excessive.

A mutual state association holding company may pay its officers any reasonable compensation as may be from time to time fixed by the board of directors. The commissioner may direct that the amount of compensation be reduced if in his judgment it is excessive.

C.17:12B-305 Distribution of surplus.

14. The board of directors of the mutual state association holding company may, from time to time, by a majority vote of the directors, divide equitably any surplus which may be in excess of the amount required for the operations of the mutual state association holding company or to maintain the safety and soundness of the mutual state association holding company, and distribute the same to the respective members of its subsidiary capital stock state association or associations, in the manner prescribed by this act, and with the approval of the commissioner. The commissioner may, if the commissioner deems the surplus held by a mutual state association holding company to be excessive, order such a distribution to be made by the directors.

C.17:12B-306 Retention of interest in assets.

15. Upon the formation of a mutual state association holding company pursuant to the provisions of this act, the members of the organizing mutual state association shall retain the same interests in the assets of the mutual state association holding company as they had in the organizing mutual state association, and upon the reorganization of an organizing mutual state association into a mutual state association holding company and a subsidiary capital stock state association pursuant to this act, the members of the subsidiary capital stock state association shall retain the same interests in the mutual state association holding company. Any interest in the assets of the mutual state association holding company which are placed in a liquidation account as provided in section 8 of this act shall be for the benefit of the members of the organizing mutual state association, or the members of the subsidiary capital stock state association, as the case may be. Upon the merger or consolidation of a mutual state association holding company or capital stock state association holding company with another mutual state association holding company, the merger or consolidation agreement shall provide for the retention of any interests of the respective members of the subsidiary capital stock state association or state associations in the assets of the merged or consolidated mutual state association holding companies according to a fair valuation, as approved by the commissioner.

A mutual state association or capital stock state association that is a subsidiary of a mutual holding company shall have the power to issue to persons other than its parent holding company, an amount of preferred stock, common stock and securities convertible into common stock which in the aggregate does not exceed 49% of the issued and outstanding stock of the association. For purposes of this 49% limitation, outstanding securities that are convertible into common stock shall be considered as issued and outstanding common stock.

C.17:12B-307 Certificate of incorporation for subsidiary.

16. The directors of a mutual state association holding company which has been established pursuant to sections 7 through 15 of this act may apply to the commissioner to incorporate a capital stock state association in accordance with this section through section 24 of this act, as a subsidiary of the mutual state association holding company. They shall issue a certificate of incorporation stating:

- a. The name by which the subsidiary capital stock state association shall be known;
- b. The street, street number and municipality in which the principal office of the subsidiary capital stock state association is to be located;
- c. The names and addresses of the directors of the mutual state association holding company who will be the incorporators of the subsidiary capital stock state association;
- d. The number of directors on the board of directors;
- e. The names of the persons who will serve as directors until their successors are elected and qualified;
- f. The amount of capital stock, the number of shares into which it is divided, and the par value of each share, not less than a majority of the total outstanding shares of which shall be held in the name of the mutual state association holding company; and
- g. The amount of surplus with which the subsidiary capital stock state association will commence business.

C.17:12B-308 Certificate of incorporation, affidavit to commissioner; contents of affidavit.

17. The certificate of incorporation of every subsidiary capital stock state association established pursuant to this act shall be submitted to the commissioner within 60 days after its execution,

together with an affidavit made by each of its incorporators, setting forth:

a. That no fee, commission, or other compensation has been received, directly or indirectly, by the mutual state association holding company incorporators or by the subsidiary capital stock state association incorporators in the course of organizing the subsidiary capital stock state association, and that no promotion fees or charges have been provided or are contemplated;

b. A complete disclosure of all fees paid or agreed to be paid in the matter of chartering and organizing the proposed subsidiary capital stock state association;

c. That at least a majority of the shares of the authorized stock of the subsidiary capital stock state association is held by the mutual state association holding company; and

d. That the subsidiary capital stock state association proposes to:

(1) Merge with the organizing mutual state association pursuant to section 25 of this act; or

(2) Purchase the assets of the organizing mutual state association pursuant to section 25 of this act; or

(3) Receive the assets and liabilities of the organizing mutual state association pursuant to subparagraph (b) of paragraph (2) of subsection c. of section 7 of this act.

C.17:12B-309 Charter approval.

18. If the commissioner determines that the qualifications, experience and character of the proposed officers and directors of the subsidiary capital stock state association are sufficient to result in the successful operations of the subsidiary capital stock state association, and that the interests of the public will be served by the establishment of the subsidiary capital stock state association, and that the capital stock of the subsidiary capital stock state association is in accordance with the amount required for state associations pursuant to section 19 of P.L.1974, c.137 (C.17:12B-248), the commissioner may approve the charter.

C.17:12B-310 Powers of stockholders, board of directors.

19. a. The stockholders of a subsidiary capital stock state association shall have the power to make, alter, and repeal bylaws. The directors of the mutual state association holding company which holds stock in the subsidiary capital stock state association shall vote the shares held by the mutual state association holding company.

b. If the certificate of incorporation of the subsidiary capital stock state association so provides, the directors of the subsidiary capital stock state association may have the power to make, alter and repeal bylaws, but any exercise of this power by the board of directors shall be subject to alteration or repeal by the stockholders. The bylaws may contain any provision not inconsistent with law for the regulation of the affairs of the subsidiary capital stock state association.

c. If a board of directors is empowered by the bylaws to make, alter, and repeal bylaws it may not, however, exercise this power with respect to bylaws:

(1) Fixing the number of directors of the subsidiary capital stock state association or the manner and time of determining this number;

(2) Establishing the requirement for calling a special meeting of the stockholders; or

(3) Setting forth the manner in which the bylaws may be made, altered, or repealed.

C.17:12B-311 Bylaws.

20. Bylaws shall not be made, altered, or repealed by the stockholders of a subsidiary capital stock state association, except at an annual or special meeting of the stockholders, and by the affirmative vote of the holders of a majority of the capital stock of the subsidiary capital stock state association eligible to vote.

Bylaws shall not be made, altered or repealed by the board of directors of the subsidiary capital stock state association except by the affirmative vote of a majority of the whole board at any regular or special meeting of the board, unless at least two days' prior written notice of the intended action shall have been given to the directors. This notice may be waived by a director at or prior to the meeting.

C.17:12B-312 Amendment of certificate of incorporation.

21. Whenever the board of directors of a subsidiary capital stock state association deems it advisable to amend the certificate of incorporation, it shall adopt a resolution setting forth the proposed amendment, which amendment shall be approved, at a meeting of the stockholders entitled to vote, by at least 2/3 of the capital stock entitled to vote. If the holders of 2/3 of the shares of capital stock entitled to vote approve the amendment, a certificate of this approval shall be attested by two officers of the state association, one of whom shall be the president or vice president, and shall be submitted to the commissioner for approval. If the commissioner finds that the amendment is for a purpose authorized by law, and that all require-

ments of law have been met regarding an amendment to a certificate of incorporation, the commissioner shall approve it by endorsing the certificate of amendment, and shall file it with the department, and the certificate of incorporation shall thereupon be deemed to be amended.

C.17:12B-313 Governance of subsidiary.

22. The annual meetings, voting rights of stockholders, liability of stockholders and the maintenance of a subsidiary capital stock state association's books and records shall be governed by the provisions of Article XXI of P.L.1974, c.137 (C.17:12B-244 et seq.).

C.17:12B-314 Dividends.

23. A subsidiary capital stock state association may declare dividends on its capital stock pursuant to the provisions of section 30 of P.L.1974, c.137 (C.17:12B-259).

C.17:12B-315 Merger.

24. a. All other powers, rights, and privileges of a converted state association or a subsidiary capital stock state association not expressly provided for in this act shall be governed by the laws of this State relating to state associations, including the laws relating to capital stock state associations, but in any case where any power of investment of a mutual state association is limited to a percentage of its capital deposits or surplus, any limitation upon a subsidiary capital stock state association shall be expressed in terms of total capital funds, as defined by the commissioner by regulations.

b. A subsidiary capital stock state association or a converted state association may merge with a mutual state association or with a capital stock state association pursuant to the provisions of Article XIII of P.L.1963, c.144 (C.17:12B-198 et seq.) and section 37 of P.L.1974, c.137 (C.17:12B-266). In the event of the merger of a subsidiary capital stock state association or converted state association with another state association, in which the resulting state association shall be a subsidiary capital stock state association or capital stock state association held by a mutual state association holding company, the plan of merger or consolidation shall provide for the retention of any interest of the members of the merging or consolidating state association in the assets of the resulting state association's parent mutual state association holding company according to a fair valuation.

C.17:12B-316 Merger or purchase or retention of assets and assumption of liabilities.

25. a. A subsidiary capital stock state association may, pursuant to a plan of merger approved by the commissioner, merge with the

organizing mutual state association or, pursuant to a plan of consolidation approved by the commissioner, purchase or retain the assets and assume the liabilities of the organizing mutual state association, whereupon the organizing mutual state association shall dissolve pursuant to the provisions of Article XVIII of P.L.1963, c.144 (C.17:12B-228 et seq.).

b. Upon the merger of the organizing mutual state association with the subsidiary capital stock state association or the purchase and assumption of the liabilities of the organizing mutual state association:

(1) The corporate existence of the organizing mutual state association shall be merged with that of the subsidiary capital stock state association, and the property and rights of the organizing mutual state association shall vest in the subsidiary capital stock state association without further word or deed;

(2) The subsidiary capital stock state association may, upon complying with the minimum surplus requirements established by law or regulation, establish and maintain its principal office and branch offices at the locations specified in the plan of merger or consolidation;

(3) The rights and obligations of the organizing mutual state association shall become the rights and obligations of the subsidiary capital stock state association; and

(4) Any pending action by or against an organizing mutual state association or a subsidiary capital stock state association shall survive the merger or consolidation and the subsidiary capital stock state association shall be substituted as a party for the organizing mutual state association.

c. The plan of merger or consolidation shall provide that each depositor in the organizing mutual state association shall receive an equivalent account in the subsidiary capital stock state association.

C.17:12B-317 Alternative to formation of subsidiary.

26. As an alternative to the formation of a subsidiary capital stock state association pursuant to the provisions of sections 16 through 24 of this act, an organizing mutual state association which has established a mutual state association holding company pursuant to sections 7 through 15 of this act may, in accordance with a plan approved by the commissioner, convert to a capital stock state association pursuant to the provisions of P.L.1974, c.137 (C.17:12B-244 et seq.), except that:

a. Not less than a majority of the shares of the converted state association shall be held in the name of the mutual state association holding company; and

b. Any Department of Banking regulations promulgated pursuant to P.L.1974, c.137 (C.17:12B-244 et seq.) regarding a liquidation account shall not apply.

C.17:12B-318 Contents of amended certificate of incorporation.

27. In the event that the board of directors elects to follow the procedures provided in paragraph (2) of subsection c. of section 7 of this act, the directors shall, with the approval of the commissioner:

a. Adopt an amended certificate of incorporation which changes the name of the organizing mutual state association and conforms its organization, governance and powers to those prescribed for a mutual state association holding company by section 8 and sections 10 through 15 of this act.

b. The amended certificate of incorporation adopted pursuant to subsection a. of this section shall state:

(1) The amount of capital deposits and surplus which are to be retained by the organizing mutual state association holding company;

(2) The amount of assets and liabilities of the organizing mutual state association that are to be transferred to the subsidiary capital stock state association; and

(3) A means of retaining any interests of the respective members of the organizing mutual state association in the assets of the organizing mutual state association, according to a fair valuation, including assets which are proposed to be retained by the organizing mutual state association holding company.

C.17:12B-319 Rules, regulations.

28. The commissioner may promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to effectuate the purposes of this act.

29. This act shall take effect immediately.

Approved August 11, 1989.

CHAPTER 166

AN ACT concerning commissions, amending R.S.52:14-14 and supplementing chapter 14 of Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.52:14-14 is amended to read as follows:

When terms of members of boards and commissions created by joint resolution shall terminate.

52:14-14. a. Except as otherwise provided in subsection b. of this section, the terms of office of members of all commissions, committees, boards or bodies created by virtue or authority of any joint resolution of the Legislature, shall terminate upon the sine die adjournment of the session of the Legislature next following the session at which the joint resolution is passed, unless otherwise provided in the joint resolution, or unless the duties and terms of office of the commission, committee, board or body so created be extended by subsequent legislative enactment or appropriation.

b. Whenever a commission is established by a joint resolution, if the commission has a time fixed to complete its duties, the time period shall not begin to run until the appointment and qualification of a number of members sufficient to constitute a quorum, unless otherwise provided in the joint resolution.

C.52:14-14.1 Commission established by act, terms of members.

2. Whenever a commission is established by an act, if the commission has a time fixed to complete its duties, the time period shall not begin to run until the appointment and qualification of a number of members sufficient to constitute a quorum, unless otherwise provided in the act.

3. This act shall take effect immediately.

Approved August 14, 1989.

CHAPTER 167

AN ACT concerning inspection of motorcycles and amending
R.S.39:8-2 and R.S.39:3-4.

BE IT ENACTED *by the Senate and General Assembly of the State
of New Jersey:*

1. R.S.39:8-2 is amended to read as follows:

**Examiners of motor vehicles; appointment; powers; rules and regulations;
certificates of approval; purchase, lease, or condemnation of property; charge for
examinations.**

39:8-2. The director may designate and appoint, subject to existing laws, competent examiners of motor vehicles to examine motor vehicles required to be inspected in accordance with the provisions of this chapter. The examiners may be delegated to enforce the provisions of the motor vehicle and traffic law.

The director may make rules and regulations with respect to the character of the inspections to be made, with respect to the frequency of inspections of new motor vehicles and with respect to the approval or rejection of motor vehicles as a result of these inspections. Motorcycles shall be inspected between April 1 and October 31. All other vehicles required by the director to be inspected under this chapter shall be inspected at least annually.

Rules and regulations relating to the frequency and character of vehicle emission inspections shall be promulgated in cooperation with the Department of Environmental Protection.

The director shall furnish to designated examiners official certificates of approval, the form, content and use of which he shall prescribe.

The director may, with the approval of the State House Commission, purchase, lease or acquire by the exercise of the power of eminent domain any property for the purpose of assisting him in carrying out the provisions of this chapter. This property may also be used by the director for the exercise of the duties and powers conferred upon him by the other chapters of this Title.

The director shall conduct random roadside examinations of motor vehicles required to be inspected in this State to provide a continuous monitoring of motor vehicles. Each year at least 1% of the total number of motor vehicles registered in the State shall be inspected by roadside examination teams under the supervision of the director.

The director shall conduct inspections and audits of licensed private inspection centers to insure accurate test equipment calibration and use, and compliance with the provisions of this act. These inspections and audits shall be conducted monthly, except that at the discretion of the director, more frequent audits and inspections may be conducted.

The director shall make a charge of \$2.50 for the initial inspection for each vehicle subject to inspection, which amount shall be paid to the director or his representative when payment of the registration fees fixed in chapter 3 of this Title is made. The fee is not applicable to inspection by licensed private inspection centers.

2. R.S.39:3-4 is amended to read as follows:

Registration of automobiles and motorcycles; application; liability insurance; registration certificates; expiration; issuance; violations.

39:3-4. Except as hereinafter provided, every resident of this State and every nonresident whose automobile or motorcycle shall be driven in this State shall, before using such vehicle on the public highways, register the same, and no automobile or motorcycle shall be driven unless so registered.

Such registration shall be made in the following manner: An application in writing, signed by the applicant or by an agent officer, in case the applicant is a corporation, shall be made to the director or his lawful agent, on forms prepared and supplied by the director, containing the name, address and age of the owner, together with a description of the character of the automobile or motorcycle, including the name of the maker and the manufacturer's number or the motor number, or both, and any other statement that may be required by the director. If the vehicle is insured by motor vehicle liability insurance, as required by law, the application shall contain the name of the insurer of said vehicle and the policy number.

Thereupon the director shall have the power to grant a registration certificate to the owner of any motor vehicle, if over 17 years of age, application for the registration having been properly made and the fee therefor paid, and the vehicle being of a type that complies with the requirements of this subtitle. The form and contents of the registration certificate to be issued shall be prescribed by the director. The director shall maintain a record of all registration certificates issued, and of the contents thereof.

Every registration shall expire and the certificate thereof become void on the last day of the 12th calendar month following the calendar

month in which the certificate was issued; provided, however, that the director may, at his discretion and for good cause shown, require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by him, which date shall not be sooner than three months nor later than 16 months after the date of issuance of such certificates, and the fees for such registrations shall be fixed by the director in amounts proportionately less or greater than the fees established in this Title.

All motorcycles for which registrations have been issued prior to the effective date of P.L.1989, c.167 and which are scheduled to expire between November 1 and March 31 shall, upon renewal, be issued registrations by the director which shall expire on a date fixed by him, but in no case shall that expiration date be earlier than April 30 nor later than October 31. The fees for the renewal of the motorcycle registrations authorized under this paragraph shall be fixed by the director in an amount proportionately less or greater than the fee established by R.S.39:3-21.

The director shall issue registration certificates for the following registration period on and after the first day of the calendar month immediately preceding the commencement of such registration period, such registration certificates to be effective immediately.

Application forms for all renewals of registration for passenger automobiles shall be mailed by the director from the central office of the division to the last addresses of owners of motor vehicles and motorcycles, as they appear on the records of the division.

No person owning or having control over any unregistered motor vehicle shall permit the same to be parked or to stand on a public highway.

Any police officer is authorized to remove any such unregistered vehicle from the public highway to a storage space or garage, the expense involved in such removal and storing of said motor vehicle to be borne by the owner of such vehicle.

Any person violating the provisions of this section shall be subject to a fine not exceeding \$100.00, except that for the misstatement of any fact in the application required to be made by the director, the person making such statement shall be subject to the penalties provided in R.S.39:3-37.

Nothing in this section shall be construed to alter or extend the

expiration date of any registration certificate issued prior to March 1, 1956.

3. This act shall take effect on the 366th day following enactment.

Approved August 14, 1989.

CHAPTER 168

AN ACT concerning the appointment of alternate members to certain local boards and amending R.S.26:3-3 and P.L.1968, c.245.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.26:3-3 is amended to read as follows:

Composition of board.

26:3-3. The local board in every municipality, other than a township, which is subject to the provisions of subdivision C of this article, shall be composed of not less than five nor more than seven members, except that in a city of the first class the board shall consist of 10 members, and in a city having a population of over 80,000, but not of the first class, the board shall consist of not less than five nor more than 10 members.

The local board may, by ordinance, provide for the appointment of two alternate members. Notwithstanding the provisions of any other law or charter heretofore adopted, the ordinance shall provide the method of appointment of the alternate members. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2."

The terms of the alternate members shall be for two years, except that the terms of the alternate members first appointed shall be two years for Alternate No. 1 and one year for Alternate No. 2, so that the term of not more than one alternate member shall expire in any one year. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

An alternate member shall not be permitted to act on any matter in which he has either directly or indirectly any personal or financial

interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first.

2. Section 1 of P.L.1968, c.245 (C.40:56A-1) is amended to read as follows:

C.40:56A-1 Commission; appointment; terms; vacancies.

1. Commission; appointment; terms; vacancies. The governing body of any municipality may by ordinance establish an environmental commission for the protection, development or use of natural resources, including water resources, located within its territorial limits. The commission shall consist of not less than five nor more than seven members, appointed by the mayor of the municipality, one of whom shall also be a member of the municipal planning board and all of whom shall be residents of the municipality; the members shall serve without compensation except as hereinafter provided. The mayor of the municipality shall designate one of the members to serve as chairman and presiding officer of the commission. The terms of office of the first commissioners shall be for one, two or three years, to be designated by the mayor in making his appointments so that the terms of approximately 1/3 of the members will expire each year, and their successors shall be appointed for terms of three years and until the appointment and qualification of their successors. The mayor or governing body of the municipality may remove any member of the commission for cause, on written charges served upon the member and after a hearing thereon at which the member shall be entitled to be heard in person or by counsel. A vacancy on the commission occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment. Notwithstanding any other provisions of law to the contrary, the powers of appointment and removal hereby accorded to the mayor of a municipality shall be vested in the elected official so designated or, where there is a vacancy in the office of mayor, in the duly designated acting mayor.

The governing body may, by ordinance, provide for the appointment of not more than two alternate members. Notwithstanding the provisions of any other law or charter heretofore adopted, the ordi-

nance shall provide the method of appointment of alternate members. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2."

The terms of the alternate members shall be for two years, except that the terms of the alternate members first appointed shall be two years for Alternate No. 1 and one year for Alternate No. 2 so that the term of not more than one alternate member shall expire in any one year. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

An alternate member shall not be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first.

3. This act shall take effect immediately.

Approved August 14, 1989.

CHAPTER 169

AN ACT concerning the registration of athletic trainers and amending and supplementing P.L.1984, c.203.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 6 of P.L.1984, c.203 (C.45:9-37.40) is amended to read as follows:

C.45:9-37.40 Registration within 90 days.

6. a. Ninety days from the effective date of this act, it shall be unlawful for any person to practice athletic training in this State unless registered in accordance with the provisions of this act.

Nothing in this act, however, shall prohibit any person licensed to practice in this State under any other law from engaging in the practice for which he is licensed.

b. This act shall not prohibit: a candidate for registration as an athletic trainer from accumulating the mandated number of hours of supervised clinical experience under the direction of a registered athletic trainer; a student enrolled in a school or educational program of athletic training approved by the board from performing acts of athletic training incidental to the course of study, if the performance is under the direction of a registered athletic trainer; a student in any educational program in the healing arts approved or accredited under the laws of this State from carrying out prescribed courses of study; a person employed by any agency, bureau or division of the federal government from discharging his official duties; or a person in connection with employment as an athletic trainer by a nonresident athlete, educational institution or recognized athletic organization temporarily visiting in this State, from practicing athletic training for a period not to exceed 90 days in one calendar year provided he is lawfully permitted to work as an athletic trainer in the state of residence of his employer.

c. The provisions of this act are not intended to limit the activities of persons legitimately engaged in the administration of nontherapeutic baths, massage and normal exercise.

2. Section 7 of P.L.1984, c.203 (C.45:9-37.41) is amended to read as follows:

C.45:9-37.41 Physical therapy for reimbursement, licensing required.

7. An athletic trainer may not practice or be employed by any individual or entity in order to do physical therapy procedures for reimbursement unless licensed in accordance with the "Physical Therapist Licensing Act of 1983," P.L.1983, c.296 (C.45:9-37.11 et seq.).

3. Section 8 of P.L.1984, c.203 (C.45:9-37.42) is amended to read as follows:

C.45:9-37.42 Qualifications for registration as athletic trainer.

8. An applicant for registration as an athletic trainer shall submit evidence to the board, in the form the board may prescribe, that the applicant:

- a. Is 18 years of age or older;

b. Is of good moral character and does not engage in the habitual use of alcohol, narcotics or other habit forming drugs;

c. Is a graduate of a high school approved by the Department of Education or has obtained equivalent education acceptable to the board; and

d. Has met the athletic training curriculum requirements of a college or university approved by the board and provides proof of graduation or has successfully completed a program of baccalaureate education and training and experience approved by the board and provides proof of its completion. The board, in establishing, altering or amending the standards for approving curricula and courses of study in institutions which grant baccalaureate degrees and which are accredited by a regional accreditation agency recognized by the Council on Postsecondary Accreditation or the United States Department of Education shall consult with the Board of Higher Education and the advisory committee. The board, in establishing, altering, or amending the standards for approving programs of baccalaureate education and training and experience shall consult with the advisory committee. Both the curriculum and the program shall include courses of study in the biophysical sciences for the use of physical agents and medical-surgical techniques as related to athletics.

4. Section 9 of P.L.1984, c.203 (C.45:9-37.43) is amended to read as follows:

C.45:9-37.43 Examination for licensing as athletic trainer.

9. An applicant who complies with the qualifications for registration shall successfully complete an examination approved by the board. The examination shall test the applicant's knowledge of the basic and clinical sciences that are pertinent to athletic training, emergency care of the injured athlete and principles of injury evaluation and conditioning, including the use of various physical modalities and exercise techniques. The examination shall be administered within the State no less than once each year at a time and place the board shall designate.

5. Section 10 of P.L.1984, c.203 (C.45:9-37.44) is amended to read as follows:

C.45:9-37.44 Issuance of registration.

10. On payment to the board of the application fee as provided in section 14 of this act, and upon approval of the application, the board shall issue a registration to any person who successfully passes the examination provided in section 9 of this act.

6. Section 11 of P.L.1984, c.203 (C.45:9-37.45) is amended to read as follows:

C.45:9-37.45 Registration without examination.

11. On payment to the board of the application fee as provided in section 14 of this act, and upon approval of a written application on forms provided by the board, the board shall issue, without examination, a registration to any person who:

a. Applies for registration within 90 days of the effective date of this act and who meets the qualifications set forth in subsections a., b., and c. of section 8 of this act and presents to the board evidence of having provided comprehensive, satisfactory athletic training services for five years or more as a major responsibility of employment in this State prior to the effective date of the act; or is a resident of this State and presents evidence of being certified by the National Athletic Trainers Association; or

b. Is licensed, certified or registered as an athletic trainer in any other state or territory of the United States or the District of Columbia, if the requirements for licensure, certification or registration were at the time of the applicant's licensure, certification or registration equivalent to or in excess of the requirements of this act at the date of application for the registration as shall be determined by the board in consultation with the committee; or

c. Is employed in or is a resident of this State and presents evidence of being certified by the National Athletic Trainers Association as an athletic trainer.

7. Any person who, on December 4, 1984, was eligible for registration as an athletic trainer pursuant to subsection a. of section 11 of P.L.1984, c.203 (C.45:9-37.45) may apply for registration without examination to the State Board of Medical Examiners on or before the 180th day following the effective date of this amendatory and supplementary act.

8. The board shall publish within 30 days of the effective date of this amendatory and supplementary act a notice containing the language of section 7 of this amendatory and supplementary act and a brief description of the eligibility requirements for registration without examination pursuant to subsection a. of section 11 of P.L.1984, c.203 (C.45:9-37.45).

The notice shall contain the specific date of the 180th day following the effective date of this amendatory and supplementary act. The

notice shall be published at least twice during the 30-day period in one or more newspapers circulating in each county in the State.

9. This act shall take effect immediately.

Approved August 14, 1989.

CHAPTER 170

AN ACT concerning the rights of patients in general hospitals and supplementing P.L.1971, c.136 (C.26:2H-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.26:2H-12.7 Legislative findings and declarations.

1. The Legislature finds and declares that a person admitted to a general hospital often feels overwhelmed and uncertain as to his condition and course of treatment, and that the declaration of a bill of rights for hospital patients may lead to fuller understanding and greater security on the part of patients as well as greater sensitivity by the providers of medical care.

C.26:2H-12.8 Rights of persons admitted to a general hospital.

2. Every person admitted to a general hospital as licensed by the State Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall have the right:

- a. To considerate and respectful care consistent with sound nursing and medical practices;
- b. To be informed of the name of the physician responsible for coordinating his care;
- c. To obtain from the physician complete, current information concerning his diagnosis, treatment, and prognosis in terms he can reasonably be expected to understand. When it is not medically advisable to give this information to the patient, it shall be made available to another person designated by the patient on his behalf;
- d. To receive from the physician information necessary to give informed consent prior to the start of any procedure or treatment and which, except for those emergency situations not requiring an informed consent, shall include as a minimum the specific procedure or treatment, the medically significant risks involved, and the pos-

sible duration of incapacitation, if any, as well as an explanation of the significance of the patient's informed consent. The patient shall be advised of any medically significant alternatives for care or treatment, however, this does not include experimental treatments that are not yet accepted by the medical establishment;

e. To refuse treatment to the extent permitted by law and to be informed of the medical consequences of this act;

f. To privacy to the extent consistent with providing adequate medical care to the patient. This shall not preclude discussion of a patient's case or examination of a patient by appropriate health care personnel;

g. To privacy and confidentiality of all records pertaining to his treatment, except as otherwise provided by law or third party payment contract, and to access to those records, including receipt of a copy thereof at reasonable cost, upon request, unless his physician states in writing that access by the patient is not medically advisable;

h. To expect that within its capacity, the hospital will make reasonable response to his request for services, including the services of an interpreter in a language other than English if 10% or more of the population in the hospital's service area speaks that language;

i. To be informed by his physician of any continuing health care requirements which may follow discharge and to receive assistance from the physician and appropriate hospital staff in arranging for required follow-up care after discharge;

j. To be informed by the hospital of the necessity of transfer to another facility prior to the transfer and of any alternatives to it which may exist, which transfer shall not be effected unless it is determined by the physician to be medically necessary;

k. To be informed, upon request, of other health care and educational institutions that the hospital has authorized to participate in his treatment;

l. To be advised if the hospital proposes to engage in or perform human research or experimentation and to refuse to participate in these projects. For the purposes of this subsection "human research" does not include the mere collecting of statistical data;

m. To examine and receive an explanation of his bill, regardless of source of payment, and to receive information or be advised on the availability of sources of financial assistance to help pay for the patient's care, as necessary;

- n. To expect reasonable continuity of care;
- o. To be advised of the hospital rules and regulations that apply to his conduct as a patient; and,
- p. To treatment without discrimination as to race, age, religion, sex, national origin, or source of payment.

C.26:2H-12.9 Summary of rights given to all patients, posted in general hospital rooms.

3. The administrator of a general hospital shall insure that a written summary of the rights set forth in this act be given to the patient or his guardian upon admittance to the hospital and to each individual already in residence, and that a written notice listing these rights is posted in a conspicuous place in the patient's room. The administrator shall also post this notice in a conspicuous public place in the hospital.

C.26:2H-12.10 Filing of complaint.

4. A patient may file a written complaint against a hospital for a failure to comply with the provisions of this act, or any rule or regulation adopted pursuant to this act, either with the hospital or the Department of Health. The hospital or the Department of Health, as appropriate, shall respond promptly in writing to the complaint. The Department of Health shall investigate a written complaint filed with the department and report its findings to the hospital and the patient.

C.26:2H-12.11 Rules, regulations.

5. The Commissioner of Health is authorized to adopt rules and regulations in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

6. This act shall take effect on the 90th day following enactment.

Approved August 14, 1989.

CHAPTER 171

AN ACT exempting library trustees from liability for damages under certain conditions and supplementing chapter 53A of Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.2A:53A-7.3 Exemption from liability for library trustees, members of commission.

1. Notwithstanding any other provision of law to the contrary, no person serving as a member of the board of trustees of a free public library or regional library, or as a member of a county library commission, shall be liable for damages resulting from the exercise of judgment or discretion in connection with the duties of his office unless the actions evidence a reckless disregard for the duties imposed by the position.

2. This act shall take effect immediately.

Approved August 17, 1989.

CHAPTER 172

AN ACT concerning the limitation of liability of owners, lessees, and occupants of certain premises, and supplementing Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.2A:42A-8 Limitation of liability of owners, lessees, occupants.

1. An owner, lessee or occupant of premises upon which public access has been required as a condition of a regulatory approval of, or by agreement with, the Department of Environmental Protection, regardless of whether public notice is provided, shall be liable only for:

a. willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

b. injury caused by acts of negligence on the part of the owner, lessee or occupant of the premises to any person where permission to engage in sport or recreational activity on the premises was granted

for a consideration other than the consideration, if any, paid to the landowner by the State; or

c. injury caused by acts of gross negligence on the part of the owner, lessee, or occupant of the premises to any person entering or using the land for a use or purpose unrelated to public access purposes.

2. This act shall take effect immediately.

Approved August 17, 1989.

CHAPTER 173

AN ACT concerning nursing homes and residential health care facilities and amending and supplementing P.L.1984, c.114.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 3 of P.L.1984, c.114 (C.26:2H-14.3) is amended to read as follows:

C.26:2H-14.3 Rules, regulations for adequate ventilation; air conditioning required within two years; exceptions.

3. The Commissioner of Health shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) adopt rules and regulations necessary to effectuate the purposes of this act. The regulations shall require that:

a. Each health care facility included within the provisions of this act and which is not equipped with air conditioning on the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), shall provide for and operate adequate ventilation in all areas used by patients or residents, including, but not limited to, the use of ceiling fans, wall fans or portable fans, where appropriate, so that the temperature in these areas does not exceed 82 degrees Fahrenheit, but the health care facility shall not directly assess patients or residents for the purchase or installation of the fans or other ventilating equipment.

The regulations shall also provide that within two years after the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), every nursing home included within the provisions of this act, and every residential health care facility as specified in this paragraph, shall be equipped with air conditioning, except that the commissioner may grant a nursing home or residential health care facility a waiver from the air

conditioning requirement to give the nursing home or residential health care facility one additional year to comply with the air conditioning requirement, for which waiver the nursing home or residential health care facility shall apply on a form and in a manner prescribed by the commissioner, if the nursing home or residential health care facility can demonstrate to the satisfaction of the commissioner that the failure to grant such a waiver would pose a serious financial hardship to the nursing home or residential health care facility. The air conditioning shall be operated so that the temperature in all areas used by patients or residents does not exceed 82 degrees Fahrenheit. The air conditioning requirement established in this subsection shall apply to a residential health care facility only: (1) upon enactment into law of legislation that increases the rate of reimbursement provided by the State under the Supplemental Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.), which rate is certified by the Commissioner of Health to be sufficient to enable the facility to meet the costs of complying with the requirement; and (2) if the facility qualifies for funds for energy efficiency rehabilitation through the "Petroleum Overcharge Reimbursement Fund," established pursuant to P.L.1987, c.231, which funds can be applied towards equipping the facility with air conditioning. A nursing home or residential health care facility shall not directly assess patients or residents for the purchase or installation of the air conditioning equipment; and

b. Patients or residents are identified by predisposition, due to illness, medication or otherwise, to heat-related illness and that during a heat emergency, their body temperature, dehydration status and other symptoms of heat-related illness are monitored frequently and regularly, any anomalies are promptly reported to the attending physician, and any necessary therapeutic or palliative measures are instituted, including the provision of liquids, where required.

C.26:2H-14.4 Air conditioning required in nursing homes, residential health care facilities.

2. A nursing home or residential health care facility included within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et seq.) which is constructed or expanded after the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.) shall be equipped with air conditioning in all areas used by patients or residents and the air conditioning shall be operated so that the temperature in these areas does not exceed 82 degrees Fahrenheit.

3. This act shall take effect immediately.

Approved August 17, 1989.

CHAPTER 174

AN ACT exempting members of the Vietnam Veteran's Memorial Committee from liability for damages under certain conditions and supplementing chapter 53A of Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. a. Notwithstanding any other provision of law to the contrary, no person serving as a member of the Vietnam Veterans' Memorial Committee established by P.L.1985, c.494 shall be liable for damages resulting from the exercise of judgment or discretion in connection with the duties of his office unless the actions evidence a reckless disregard for the duties imposed by the position.

b. Notwithstanding any other provision of law to the contrary, no person who provides volunteer service or assistance to the Vietnam Veterans' Memorial Committee, including but not limited to a person who provides architectural or construction services, shall be liable for damages as a result of his actions of commission or omission arising out of and in the course of his rendering the volunteer service or assistance.

Nothing in this subsection shall be deemed to grant immunity to any person causing damage by his willful, wanton or grossly negligent act of commission or omission.

Nothing in this subsection shall be deemed to grant immunity to any person causing damage as the result of the negligent operation of a motor vehicle.

2. This act shall take effect immediately.

Approved August 17, 1989.

CHAPTER 175

AN ACT requiring corporations doing business in New Jersey to file certain information with the Secretary of State, amending N.J.S.14A:2-7 and supplementing chapter 4 of Title 14A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.14A:2-7 is amended to read as follows:

Certificate of incorporation.

14A:2-7. Certificate of incorporation.

- (1) The certificate of incorporation shall set forth:

- (a) The name of the corporation;

- (b) The purpose or purposes for which the corporation is organized. It shall be a sufficient compliance with this paragraph to state, alone or with specifically enumerated purposes, that the corporation may engage in any activity within the purposes for which corporations may be organized under this act, and all such activities shall by such statement be deemed within the purposes of the corporation, subject to express limitations, if any;

- (c) The aggregate number of shares which the corporation shall have authority to issue;

- (d) If the shares are, or are to be, divided into classes, or into classes and series, the designation of each class and series, the number of shares in each class and series, and a statement of the relative rights, preferences and limitations of the shares of each class and series, to the extent that such designations, numbers, relative rights, preferences and limitations have been determined;

- (e) If the shares are, or are to be, divided into classes, or into classes and series, a statement of any authority vested in the board to divide the shares into classes or series or both, and to determine or change for any class or series its designation, number of shares, relative rights, preferences and limitations;

- (f) Any provision not inconsistent with this act or any other statute of this State, which the incorporators elect to set forth for the management of the business and the conduct of the affairs of the corporation, or creating, defining, limiting or regulating the powers of the corporation, its directors and shareholders or any class

of shareholders, including any provision which under this act is required or permitted to be set forth in the bylaws;

(g) The address of the corporation's initial registered office, and the name of the corporation's initial registered agent at such address. On or after the effective date of this 1989 amendatory and supplementary act, the address of the registered office as shown on the certificate of incorporation shall be a complete address, including the number and street location of the registered office and, if applicable, the post office box number;

(h) The number of directors constituting the first board and the names and addresses of the persons who are to serve as such directors;

(i) The names and addresses of the incorporators;

(j) The duration of the corporation if other than perpetual; and

(k) If, pursuant to subsection 14A:2-7(2), the certificate of incorporation is to be effective on a date subsequent to the date of filing, the effective date of the certificate.

(2) The certificate of incorporation shall be filed in the office of the Secretary of State. The corporate existence shall begin upon the effective date of the certificate, which shall be the date of the filing or such later time, not to exceed 90 days from the date of filing, as may be set forth in the certificate. Such filing shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and, after the corporate existence has begun, that the corporation has been incorporated under this act, except as against this State in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

(3) The certificate of incorporation may provide that a director or officer shall not be personally liable, or shall be liable only to the extent therein provided, to the corporation or its shareholders for damages for breach of any duty owed to the corporation or its shareholders, except that such provision shall not relieve a director or officer from liability for any breach of duty based upon an act or omission (a) in breach of such person's duty of loyalty to the corporation or its shareholders, (b) not in good faith or involving a knowing violation of law or (c) resulting in receipt by such person of an improper personal benefit. As used in this subsection, an act or omission in breach of a person's duty of loyalty means an act or omission which that person knows or believes to be contrary to the

best interests of the corporation or its shareholders in connection with a matter in which he has a material conflict of interest.

C.14A:4-6 Complete address required.

2. On or after the effective date of this 1989 amendatory and supplementary act, whenever the address of a registered office is required to be provided on any document under the provisions of chapter 4 of Title 14A of the New Jersey Statutes, the complete address shall be provided, including the number and street location and, if applicable, the post office box number. If the complete address has not been previously filed with the Secretary of State, it shall be provided by completion of a change of address form to be approved and made available by the Annual Reports Section of the Division of Commercial Recording in the Department of State.

3. This act shall take effect immediately.

Approved August 17, 1989.

CHAPTER 176

AN ACT appropriating \$6,375,000 from the "Jobs, Science and Technology Bond Act of 1984" for the purpose of establishing and constructing research facilities for advanced technology centers.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. There is appropriated to the New Jersey Commission on Science and Technology, established pursuant to P.L.1985, c.102 (C.52:9X-1 et seq.), from the "Jobs, Science and Technology Fund" created pursuant to the "Jobs, Science and Technology Bond Act of 1984," P.L.1984, c.99, the sum of \$6,375,000 for the purpose of establishing and constructing advanced technology centers. This sum shall be allocated as follows:

a. Center for Manufacturing Engineering Systems, to be located at the New Jersey Institute of Technology in Newark (New Jersey Institute of Technology, sponsor)	\$6,000,000
b. Center for Computer Aids for Industrial Productivity, to be located at Rutgers University in	

Piscataway (Rutgers, the State University, sponsor) \$375,000

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1984, c.99.

3. In order to provide flexibility in administering this act, the New Jersey Commission on Science and Technology may apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer funds from any item to any other item in this act. Upon the approval of an application by the director and by the Joint Budget Oversight Committee, or its successor, in writing, the director shall make the transfer as provided by law.

4. This act shall take effect immediately.

Approved August 17, 1989.

CHAPTER 177

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. All proceedings heretofore had or taken by any school district or at any school election for the authorization or issuance of bonds of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that notice of the election was not timely published in a newspaper as required by the provisions of N.J.S.18A:14-19, provided however, that no action, suit or other proceeding has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved August 17, 1989.

CHAPTER 178

AN ACT to validate certain proceedings of fire districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. All proceedings heretofore had or taken by any board of fire commissioners or at any fire district meeting or election for the authorization or issuance of bonds or other obligations of the fire district, and any bonds or other obligations of the fire district issued or to be issued pursuant to a resolution of the board of commissioners of such fire district approved by the legal voters at such fire district election, are hereby ratified, validated and confirmed, notwithstanding that notices to military service voters and to their friends and relatives and to persons desiring civilian absentee ballots were not published in accordance with the provisions of section 7 of the "Absentee Voting Law (1953)", P.L.1953, c.211 (C.19:57-1 et seq.); provided, however, that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect, and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved August 17, 1989.

CHAPTER 179

AN ACT concerning county parks, playgrounds and recreation places,
and supplementing P.L.1946, c.276 (C.40:37-95.1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

**C.40:37-95.10n Additional bonds, obligations for land and improvements for county
parks.**

1. The governing body of any county having adopted the provisions of P.L.1946, c.276 (C.40:37-95.1 et seq.) may provide, in accordance with the provisions of this act, additional funds for land and improvements for use for county park purposes, or for the payment of notes previously authorized or issued to provide such funds, by the issuance of additional bonds or other obligations of the county pursuant to the provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., in an amount, both authorized and outstanding, not to exceed at any one time the aggregate sum of \$10,000,000, plus the amount of any funds on hand applicable to the payment of the principal of such outstanding bonds or other obligations. The amount of bonds or other obligations that may be issued by a county pursuant to this act shall be in addition to the amounts of bonds or other obligations authorized under any other law for lands or improvements for county park purposes.

The provisions of this section shall remain inoperative until submitted to, and approved by, the legal voters of an eligible county as hereinafter provided.

C.40:37-95.10o Submission of question to voters.

2. Whenever the governing body of a county subject to the provisions of this act shall adopt a resolution authorizing submission of the question of adoption or rejection of this act to the voters of the county, the county clerk shall cause the question to be printed upon the same and official ballots for the ensuing general election, occurring not less than 40 days after adoption of the resolution, as follows:

If you favor the proposition printed below make a cross (X), plus (+) or check (✓) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✓) in the square opposite the word "No."

	Yes.	Shall the provisions of "An Act concerning county parks, playgrounds and recreation places, and supplementing P.L.1946, c.276, C.40:37-95.1 et seq. (P.L.1989, c.179)," providing for the issuance of additional park bonds or other obligations for land and improvements not exceeding in the aggregate the sum of \$10,000,000, be adopted? INTERPRETIVE STATEMENT
	No.	If this question receives a majority of the votes cast, the county will be permitted to issue additional bonds or other obligations for land and improvements by the county park commission or for the payment of notes previously issued. The amount of additional bonds or other obligations under this question, both authorized and outstanding at any one time, may not exceed \$10,000,000, plus the amount of any funds on hand applicable to the payment of the principal of the outstanding bonds or other obligations.

In a county in which voting machines are used, the question shall be placed upon the official ballots to be used upon the voting machines without the foregoing instructions to the voters and shall be voted upon by use of the machines without marking as aforesaid.

C.40:37-95.10p Adoption of law.

3. If a majority of all the votes cast both for and against adoption of the law are cast in favor of its adoption, the law shall immediately become operative in the county voting thereon.

4. This act shall take effect immediately.

Approved August 17, 1989.

CHAPTER 180

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of \$115,000,000 for the purpose of rehabilitating, and improving bridges in the State, and the preservation and acquisition of railroad rights-of-way; authorizing the issuance of refunding bonds; providing the ways and means to pay and discharge the principal of and interest on the bonds and refunding bonds; providing for the submission of this act to the people at a general election; and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the “New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bond Act of 1989.”

2. The Legislature finds and determines that:

a. A safe and reliable system of rail and road transportation is essential to the well-being of the citizens and the economy of this State.

b. New Jersey’s rail and road system is one of the busiest in the world and provides a corridor for goods and passengers to and from not only New York, Pennsylvania and Delaware, but also to and from distant points in the western, northern, and southern regions of our nation.

c. More than 150,000 commuters daily rely on New Jersey’s railroads for transportation to and from their places of employment.

d. Due to the destructive effect of the elements, the structural pressures of regular usage, and significant material deterioration stemming from a lack of regular maintenance in recent decades, bridges in the State’s rail and road system are desperately in need of rehabilitation and improvement.

e. The cost of such essential rehabilitation and improvement far exceeds the funds which can be provided by regular State appropriations or will be available from the federal government, or pursuant to the “New Jersey Transportation Rehabilitation and Improvement Bond Act of 1979,” the “New Jersey Bridge Rehabilitation and Improvement Bond Act of 1983” (P.L.1983, c.363) or the “New Jersey

Transportation Trust Fund Authority Act of 1984," P.L.1984, c.73 (C.27:1B-1 et seq.).

f. It is in the public interest, and a wholly valid and essential public purpose, to rehabilitate and improve bridges in the State's rail and road system through the authorization of the bond issue provided for herein.

g. It is in the public interest, and a wholly valid and essential public purpose, to preserve and acquire rights-of-way in the State's rail system through the authorization of the bond issue provided for herein.

3. As used in this act:

"Bonds" mean the bonds authorized to be issued, or issued, under this act.

"Commissioner" means the Commissioner of Transportation.

"Cost" means the expenses incurred in connection with: the construction, reconstruction, improvement, rehabilitation, removal, demolition, relocation, renewal, establishment, or repair of bridges; the acquisition by purchase, lease or otherwise and the construction, reconstruction, improvement, rehabilitation or renewal of railroad rights-of-way as necessary for their preservation; the procurement of engineering, inspection, planning, legal, financial and other professional services; the procurement of the services of a bond registrar and an authenticating agent; the cost of reimbursement of any fund of the State from which moneys shall have been advanced to the fund created herein; the issuance of bonds or any interest or discount thereon; and the establishment of a reserve fund or funds for working capital, operating, maintenance or replacement expenses and for payment or security of principal or interest on bonds as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine.

"Department" means the New Jersey Department of Transportation.

"Fund" means the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989" established in section 14 of this act.

"Government securities" means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America,

including obligations of any federal agency, to the extent those obligations are unconditionally guaranteed by the United States of America, and any certificates or any other evidences of an ownership interest in those obligations of, or unconditionally guaranteed by, the United States of America or in specified portions of those obligations which may consist of the principal of, or the interest on, those obligations.

“Railroad overhead bridge” means any bridge or passage carrying a State highway or a county or municipal road over and across a railroad, subway, or street, traction, or electric railway, or over and across the right-of-way of such a railroad, subway or railway. Unless stated otherwise to the contrary, this definition shall not include those bridges or passages over and across a railroad or electric railway operated by the State, the department or the New Jersey Transit Corporation.

“Rehabilitation and improvement of bridges” means the construction, reconstruction, demolition, removal, replacement, improvement, repair or rebuilding of bridges carrying State highways or county or municipal roads, including railroad overhead bridges.

4. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$115,000,000 for the purpose of financing the costs of the rehabilitation and improvement of bridges in the State and the preservation and acquisition of railroad rights-of-way. Of this sum, not more than \$45,000,000 shall be reserved for the cost of rehabilitation and improvement of bridges carrying State highways, and not less than \$45,000,000 shall be reserved for the State share of the cost of rehabilitation and improvement of bridges carrying county and municipal roads and \$25,000,000 shall be reserved for the costs of preservation and acquisition of railroad rights-of-way, to be allocated and expended in compliance with the cost sharing requirements of this section.

b. With respect to those bridges which carry State highways and which are constructed, owned or maintained by the State and those railroad overhead bridges over and across a railroad or electric railway operated by the State, the department or the New Jersey Transit Corporation, the State shall defray the cost of rehabilitation and improvement.

c. With respect to those bridges which carry county or municipal roads, except those railroad overhead bridges carrying county or municipal roads which are provided for in subsection b. of this sec-

tion, the State shall defray 90% of the cost of rehabilitation and improvement, with the county or municipality defraying 10% of the cost.

d. With respect to railroad overhead bridges, notwithstanding the provisions of chapter 12 of Title 48 of the Revised Statutes, the railroad company whose tracks or right-of-way the bridge crosses shall not be required to contribute to the costs of the rehabilitation and improvement of a bridge but shall furnish, at its own expense, necessary track safety services and engineering reviews.

e. With respect to those railroad overhead bridges whose ownership is not determined or is in doubt, the department may accept or assign full or partial permanent jurisdictions or responsibilities to either the department or to a county or municipality as provided in this subsection or in accordance with P.L.1988, c.171 (C.27:5G-5 et seq.). The department may assign responsibility for routine roadway maintenance to the local government unit with jurisdiction for the approaching roadways. Jurisdiction or responsibility for other than roadway maintenance shall be accepted by the department except in those cases where the department determines by a preponderance of the evidence that a county or municipality already owns or has jurisdiction for a bridge. The department shall assign or accept such jurisdictions or responsibilities after notice and hearing pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. With respect to the preservation and acquisition of railroad rights-of-way, the department may acquire by purchase, condemnation, lease, gift or otherwise, on terms and conditions and in a manner the department deems proper, any current or former railroad right-of-way, or part thereof, and property adjacent or contiguous thereto, and tracks, appurtenances, ballast, buildings, facilities, stations, and other structures thereon or adjacent or contiguous thereto, within the State, for transportation purposes. The department may construct, reconstruct, improve, rehabilitate, demolish or renew such property as necessary to preserve the property for transportation purposes and may provide, by agreement with other agencies or otherwise, for whatever interim or joint uses, including but not limited to recreational uses, the department considers appropriate.

All cost sharing prescribed in this section shall be determined after first reducing the cost of rehabilitation and improvement of bridges or the cost of preserving and acquiring railroad rights-of-way by the amount of any available federal funding.

5. The commissioner is authorized to promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to effectuate the purposes of the act.

6. The bonds authorized under this act shall be serial bonds or term bonds or a combination thereof and shall be known as "1989 Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bonds". They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The bonds may be subject to redemption before maturity and shall mature and be paid not later than 35 years from the date of their issuance.

7. The Governor, State Treasurer and Director of the Division of Budget and Accounting in the Department of the Treasury or any two of such officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

8. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest thereon and redemption premium thereon, if any, when due, and for the payment of the principal thereof at maturity or earlier redemption date. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

9. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury and may be manually authenticated by an authenticating agent or bond registrar, as the issuing officials shall determine. Interest coupons, if any, attached to the bonds shall be signed by the facsimile signature of the Director of the Division of

Budget and Accounting in the Department of the Treasury. The bonds may be issued notwithstanding that any of the officials signing them or whose manual or facsimile signature appears on the bonds or coupons has ceased to hold office at the time of such issue or at the time of delivery of the bonds to the purchaser thereof.

10. a. The bonds shall recite that they are issued for the purposes set forth in section 4 of this act and that they are issued in pursuance of this act and that this act was submitted to the people of the State at the general election held in the month of November, 1989, and that it was approved by a majority of the legally qualified voters of the State voting thereon at such election. The recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing such recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

b. The bonds shall be issued in the denominations and in the form or forms, whether coupon, fully-registered or book-entry, and with or without such provisions for interchangeability thereof, as shall be determined by the issuing officials.

11. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest as from time to time may be determined by the issuing officials, which interest shall be payable semiannually; except that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

12. The bonds shall be issued and sold at such price or prices and under such terms, conditions and regulations, as the issuing officials may prescribe, after notice of the sale, published at least once in at least three newspapers published in the State of New Jersey, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in the city of New York or in New Jersey, the first notice to appear at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any bid in pursuance thereof may be rejected. In the event of rejection or of failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of such advertised sale, may sell the bonds at private sale at such price or

prices and under the terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at private sale, without advertisement.

13. Until permanent bonds are prepared, the issuing officials may issue temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of bonds shall be paid to the State Treasurer and be held by the State Treasurer in a separate fund, and be deposited in such depositories as may be selected by him to the credit of the fund, which fund shall be known as the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989."

15. a. The moneys in the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989" are specifically dedicated and shall be applied to the cost of the purposes set forth in section 4 of this act, but no such money shall be expended for such purposes, except as otherwise authorized by this act, without the specific appropriation thereof by the Legislature. Bonds may be issued as herein provided notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any moneys. Any act appropriating moneys from the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989" shall identify the project to be funded by the moneys. Prior to the appropriation of moneys from the fund, the department shall report in writing to the Governor and the Legislature concerning the number of railroad rights-of-way available for acquisition, the number of railroad rights-of-way that may be purchased with the bond moneys authorized by this act and the proposed plans and uses for the railroad rights-of-way to be purchased.

Moneys in the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989" may be appropriated or expended for the purpose of providing the nonfederal share of any federal program which finances the rehabilitation and improvement of bridges or the preservation or acquisition of railroad rights-of-way.

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from available

money in any fund of the treasury of the State to the credit of the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989," such sum as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the treasury by the State Treasurer from the proceeds of the sale of the first issue of bonds.

c. Pending their application to the purposes provided in this act, moneys in the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989" may be invested and reinvested as are other trust funds in the custody of the State Treasurer in the manner provided by law. Net earnings received from the investment or deposit of such fund shall be paid into the General Fund.

16. If any coupon bonds or coupons thereunto appertaining or any registered bond shall become lost, mutilated or destroyed, a new bond shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bonds or coupons, upon the owner furnishing to the issuing officials evidence satisfactory to them of such loss, mutilation or destruction, proof of ownership and such security and indemnity and reimbursement for expenses as the issuing officials may require.

17. Any accrued interest received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds, by the State Treasurer upon warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, at such times, not more than 35 years following the date of issuance thereof, and in such amounts as shall be determined by the issuing officials, and the issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

19. The issuing officials may issue refunding bonds in an amount

not to exceed the amount necessary to effectuate the refinancing of all or any bonds issued pursuant to this act, at any time and from time to time, for the purpose of refinancing any bond or bonds issued pursuant to this act, subject to the following provisions:

a. Refunding bonds may be issued at such time prior to the maturity or redemption of the bonds to be refinanced thereby as the issuing officials shall determine.

b. Each series of refunding bonds may be issued in a sufficient amount to pay or to provide for the payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on such bonds to be refinanced to the date of payment of such outstanding bonds, the expense of issuing such refunding bonds and the expenses, if any, of paying such bonds to be refinanced.

c. No refunding bonds shall be issued unless the issuing officials shall first determine that the present value of the aggregate principal of and interest on such refunding bonds is less than the present value of the aggregate principal of and interest on the bonds to be refinanced thereby; provided, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of such refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semiannual compounding and upon the price or prices paid to the State by the initial purchasers of such refunding bonds.

d. Any refinancing authorized hereunder may be effected by the sale of the refunding bonds and the application of the proceeds thereof to the immediate payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on such bonds to be refinanced to the date of payment of such bonds, the expenses of issuing the refunding bonds and the expenses, if any, of paying such bonds to be refinanced, or, to the extent not required for such immediate payment, shall be deposited, together with any other moneys legally available therefor, in trust with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, to be applied solely to the payment when due of the principal of, redemption premium, if any, and interest due and to become due on the bonds to be refinanced on or prior to the redemption date or maturity date thereof, as the case may be. Any such proceeds or moneys so held by such trustees or escrow agents

may be invested in government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States; provided, such government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as otherwise provided in this subsection, neither government securities or moneys so deposited with such trustees or escrow agents shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest on the bonds to be refinanced thereby; provided that any cash received from such principal or interest payments on such government securities deposited with such trustees or escrow agents, to the extent such cash will not be required at any time for such purpose shall be paid over to such trustees or escrow agents, and to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds to be refinanced on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments to the extent not required for the payment of bonds, shall be paid over to the State, as received by such trustees or escrow agents. Notwithstanding anything to the contrary contained herein: (1) such trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with such trustees or escrow agents pursuant to the provisions of this section and redeem or sell government securities so deposited with such trustees or escrow agents and apply the proceeds thereof to (a) the purchase of the bonds which were refinanced by the deposit with such trustees or escrow agents of such moneys and government securities and immediately thereafter cancel all such bonds so purchased or (b) apply the proceeds to the purchase of different government securities; provided, however, that the moneys and government securities on deposit with such trustees or escrow agents after such purchase and cancellation of such outstanding bonds or such purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which such moneys and government securities were deposited with such trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and (2) in the event that on any date, as a result of any purchases and cancellations of such bonds or any purchases of different government securities as provided in this

subsection, the total amount of moneys and government securities remaining on deposit with such trustees or escrow agents is in excess of the total amount which have been required to be deposited with such trustees or escrow agents on such date in respect of the remaining bonds for which such deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on such remaining bonds, such trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of such excess to the State. Any amounts held by the State Treasurer in a separate fund or funds for the payment of the principal of, redemption premiums, if any, and interest on bonds to be refinanced, as provided herein, shall, if so directed by the issuing officials, be transferred by the State Treasurer for deposit with one or more trustees or escrow agents, as provided herein, to be applied to the payment when due of the principal of, redemption premium, if any, and interest to become due on such bonds to be refinanced as provided in this section, or be applied by the State Treasurer to the payment when due of the principal of, redemption premium, if any, and interest on refunding bonds, issued hereunder to refinance such bonds. The State Treasurer is authorized to enter into any contract or contracts with one or more trust companies or national or state banks, as provided herein, to act as trustees or escrow agents, as provided herein, subject to the approval of the issuing officials.

e. Notwithstanding the provisions of section 12 of this act, any series of refunding bonds issued pursuant to this section shall mature at any time or times not later than five years following the latest scheduled final maturity date, determined without regard to any redemptions prior thereto, of any of the bonds to be refunded thereby, and in no event later than 35 years following the date of issuance of such series of refunding bonds, and such refunding bonds may be sold at public or private sale at such prices and under such terms, conditions and regulations as the issuing officials may prescribe. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations except as to sale provisions and to the extent therein otherwise expressly provided.

f. Upon the decision by the issuing officials to issue refunding bonds pursuant to this section and prior to the sale of those bonds, the issuing officials shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the issuing officials relied when making the de-

cision to issue refunding bonds. The report shall also disclose the intent of the issuing officials to issue and sell the refunding bonds at public or private sale and the reasons therefor.

g. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sales of refunding bonds as included in each report submitted in accordance with subsection f. of this section. The committee shall notify the issuing officials in writing of the approval or disapproval as expeditiously as possible.

h. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection g. of this section.

i. Within 30 days after the sale of the refunding bonds, the issuing officials shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

j. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the issuing officials, or to the Legislature, or both, as it deems appropriate.

20. Any bond or bonds issued hereunder shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on such bonds, and such bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust and with such trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with such trustees or escrow agents at the same time, shall be sufficient to pay

when due the principal of, redemption premium, if any, and interest due and to become due on such bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided, such government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with such trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with such trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on such bonds; provided that any cash received from such principal or interest payments on such government securities deposited with such trustees or escrow agents, to the extent such cash will not be required at any time for such purpose, shall be paid over to the State as received by such trustees or escrow agents free and clear of any trust, lien, pledge or assignment securing such bonds; and to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on such bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the State, as received by such trustees or escrow agents, free and clear of any trust, lien or pledge securing such bonds. Notwithstanding anything to the contrary contained herein: a. such trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with such trustees or escrow agents pursuant to the provisions of this section and redeem or sell government securities so deposited with such trustees or escrow agents and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with such trustees or escrow agents of such moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided however, that the moneys and government securities on deposit with such trustees or escrow agents after such purchase and cancellation of such bonds or such purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which such moneys and government securities were deposited with such trustees or

escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and b. in the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities as provided in this sentence, the total amount of moneys and government securities remaining on deposit with such trustees or escrow agents is in excess of the total amount which would have been required to be deposited with such trustees or escrow agents on such date in respect of the remaining bonds for which such deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on such remaining bonds, such trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of such excess to the State free and clear of any trust, lien, pledge or assignment securing such refunding bonds.

21. Refunding bonds issued pursuant to section 19 of this act may be consolidated with bonds issued pursuant to section 6 of this act or with bonds issued pursuant to any other act for purposes of sale.

22. To provide funds to meet the interest and principal payment requirements for the bonds and refunding bonds issued under this act and outstanding, there is appropriated in the order following:

a. Revenue derived from the collection of taxes under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or so much thereof as may be required; and

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act, are insufficient or not available, there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as other taxes upon real and personal property. The governing body of each municipality shall pay to the treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year, the issuing officials, by resolution, determine that there are moneys in the General Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest and redemption premium, if any, payable in the ensuing calendar year, the issuing officials shall file the resolution in the office of the State Treasurer, whereupon the State Treasurer shall transfer the moneys to a separate fund to be designated by the State Treasurer, and shall pay the principal, redemption premium, if any, and interest out of that fund as the same shall become due and payable, and the other sources of payment of the principal and interest provided for in this section shall not then be available, and the receipts for the year from the tax specified in subsection a. of this section shall be considered part of the General Fund, available for general purposes.

23. Should the State Treasurer, by December 31 of any year, deem it necessary, because of insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, which is to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables ascertained for the current year.

24. For the purpose of complying with the provisions of the State Constitution this act shall, at the general election to be held in the month of November, 1989, be submitted to the people. In order to inform the people of the contents of this act it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers be published therein, and notify the clerk of each county, of this State of the passage of this act, and the clerks respectively, in

accordance with the instructions of the Secretary of State, shall have each of the ballots printed, as follows:

If you approve the act entitled below, make a cross (X), plus (+) or check (✓) mark in the square opposite the word "Yes."

If you disapprove the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to these markings respectively.

	Yes.	NEW JERSEY BRIDGE REHABILITATION AND IMPROVEMENT AND RAILROAD RIGHT-OF-WAY PRESERVATION BOND ACT OF 1989 Shall the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bond Act of 1989," which authorizes the State to issue bonds in the amount of \$115,000,000 for the purpose of rehabilitating and improving bridges in the State and preserving and acquiring railroad rights-of-way; and in a principal amount sufficient to refinance any of the bonds if the same will result in a present value savings; and providing the ways and means to pay and discharge the principal thereof, be approved?
	No.	INTERPRETIVE STATEMENT Approval of this act would authorize the sale of \$115,000,000 in State general obligation bonds for the rehabilitation and improvement of State, county and municipal bridges and the preservation and acquisition of railroad rights-of-way. Not more than \$45,000,000 would be reserved for the costs of State bridge projects and not less than \$45,000,000 would be reserved to fund a portion of the costs of county and municipal bridge projects. The costs of these bridge repairs and improvements exceed

		funding which can be provided by moneys generated through two previous bridge bond acts and the Transportation Trust Fund and exceed funding available by other State appropriations. The sum of \$25,000,000 would be reserved to fund the costs of preservation and acquisition of railroad rights-of-way. The act also authorizes the issuance of bonds in a sufficient amount to refinance any of these bonds if the same will result in a present value savings.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirement of law as to notice or procedure, except as herein provided, need be adhered to.

The vote cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of the election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there shall be a majority of all votes cast for and against it at the election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

25. There is appropriated the sum of \$5,000 to the Secretary of State for expenses in connection with the publication of notice pursuant to section 24 of this act.

26. The commissioner shall submit to the State Treasurer and the New Jersey Commission on Capital Budgeting and Planning, with the department's annual budget request, a plan for the expenditure of funds from the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989" for the upcoming fiscal year. Such plan shall include, but not be limited to, a performance evaluation of the expenditures made from that fund to date; a description of programs planned during the upcoming fiscal year, a copy of the rules and regulations governing the operation of programs to be financed, in part or in whole, by funds from the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Fund of 1989;" and all estimate of expenditures for the upcoming fiscal year.

27. Not less than 30 days prior to the commissioner entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the commissioner shall report to and consult with the Joint Budget Oversight Committee, or its successor.

28. All appropriations from the bond fund shall be by specific allocation for each project, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee, or its successor.

29. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner shall submit to the Senate Transportation and Communications Committee and the General Assembly Transportation, Communications and High Technology Committee, or their designated successors, and to the Joint Budget Oversight Committee, or its successor, a copy of the plan pursuant to section 26 of this act together with such changes therein as may have been required by the Governor's budget message.

30. This section and sections 24 and 25 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 24 of this act.

Approved August 17, 1989.

CHAPTER 181

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of \$50,000,000 for the purpose of stormwater management and abating combined sewer overflows; authorizing the issuance of refunding bonds; providing the ways and means to pay and discharge the principal of and interest on the bonds and refunding bonds; providing for the submission of this act to the people at a general election; and making an appropriation therefor.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. This act shall be known and may be cited as the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989."

2. The Legislature finds and declares that:

a. Stormwater runoff and combined sewer overflows are among the major sources of ocean pollution, contributing to beach closings; that combined sewer systems discharge untreated sanitary wastewater and stormwater into rivers, streams and coastal waters during wet weather, resulting in water pollution; that some combined sewer systems have deteriorated to the point that overflows occur regularly, even during dry weather; that many sewer systems are on inadequate repair and replacement programs, which may cause disturbances at sewage treatment plants; that many municipalities are under building moratoriums due to the inadequacy of their sewage and stormwater collection systems, which moratoriums severely affect municipal budgets; and that large unmet capital expenses exist for combined sewer system separation and abatement projects.

b. The Legislature further finds and declares that funding at the federal level for wastewater treatment and stormwater management no longer includes combined sewer system rehabilitation projects; that State funds available for these projects are inadequate to meet current needs; that local revenues are insufficient to meet these expenses; and that, therefore, additional funding at the State level is necessary to meet this financial obligation.

3. As used in this act:

“Bonds” mean the bonds authorized to be issued, or issued, under this act;

“Combined sewer” means a wastewater treatment system that carries both wastewater and stormwater runoff;

“Combined sewer overflow” means the discharge of untreated or partially treated stormwater runoff and wastewater from a combined sewer into a body of water;

“Commission” means the New Jersey Commission on Capital Budgeting and Planning;

“Commissioner” means the Commissioner of Environmental Protection;

“Construction” means, in addition to the usual meaning thereof, acts of construction, reconstruction, improvement, rehabilitation, relocation, demolition, renewal, repair, replacement, extension, improvement, and betterment;

“Cost” means the expenses incurred in connection with: the ac-

quisition by purchase, lease, or otherwise, and the construction of a project authorized by this act; the acquisition by purchase, lease, or otherwise, and the development of any real or personal property for use in connection with a project authorized by this act, including any rights or interests therein; the execution of any agreements and franchises deemed by the department to be necessary or useful and convenient in connection with any project authorized by this act; the procurement of engineering, inspection, planning, legal, financial, or other professional services, including the services of a bond registrar or an authenticating agent; the issuance of bonds, or any interest or discount thereon; the administrative, organizational, operating, or other expenses incident to the financing, completing, and placing into service of any project authorized by this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any fund created by this act, or of any moneys which may have been expended therefrom for, or in connection with, any project authorized by this act;

“Department” means the Department of Environmental Protection;

“Government securities” means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency, to the extent those obligations are unconditionally guaranteed by the United States of America, and any certificates or any other evidences of an ownership interest in those obligations of, or unconditionally guaranteed by, the United States of America or in specified portions which may consist of the principal of, or the interest on, those obligations;

“Local government unit” means a county, municipality, municipal or county sewerage authority or utilities authority, municipal sewerage district, joint meeting or any other political subdivision of the State authorized pursuant to law to construct, operate or maintain a stormwater management system or a combined sewer system;

“Project” means any work relating to any of the stormwater management or combined sewer overflow abatement projects identified in the stormwater management and combined sewer overflow abate-

ment project priority list adopted by the commissioner pursuant to section 28 of this act;

“Stormwater management system” means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed or operated by a local government unit to prevent nonpoint source pollution, abate improper cross-connections and interconnections between stormwater and sewer systems, minimize stormwater runoff, reduce soil erosion, or induce groundwater recharge, or any combination thereof;

“Wastewater” means residential, commercial, industrial, or agricultural liquid waste, sewage, or any combination thereof, or other liquid residue discharged or collected into a sewer system or stormwater runoff system, or any combination thereof; and

“Wastewater treatment system” means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed or operated by a local government unit for any or all of the following: the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge; the collection or treatment, or both, of stormwater runoff and wastewater; or the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, treatment plants and works, connections, outfall sewers, interceptors, trunk lines, stormwater runoff collection systems, and other personal property and appurtenances necessary for their use or operation.

4. The commissioner shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act. The commissioner shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

5. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$50,000,000 for the purpose of providing grants and loans to local government units for the costs of projects identified pursuant to the stormwater management and combined sewer overflow abatement project priority list adopted by the commissioner pursuant to section 28 of this act. The rate of interest on loans to local government units for projects shall be 2% per annum.

6. The bonds authorized under this act shall be serial bonds, term

bonds, or a combination thereof, and shall be known as "Stormwater Management and Combined Sewer Overflow Abatement Bonds." They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The bonds may be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the respective dates of their issuance.

7. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

8. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest and redemption premium thereon, if any, when due, and for the payment of the principal thereof at maturity or earlier redemption date. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

9. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury and may be manually authenticated by an authenticating agent or bond registrar, as the issuing officials shall determine. Interest coupons, if any, attached to the bonds shall be signed by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury. The bonds may be issued notwithstanding that an official signing them or whose manual or facsimile signature appears on the bonds or coupons has ceased to hold office at the time of issuance, or at the time of the delivery of the bonds to the purchaser thereof.

10. a. The bonds shall recite that they are issued for the purposes set forth in section 5 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election held in the month of November, 1989, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

b. The bonds shall be issued in those denominations and in the form or forms, whether coupon, fully-registered or book-entry, and with or without provisions for interchangeability thereof, as may be determined by the issuing officials.

11. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials, which interest shall be payable semiannually; except that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

12. The bonds shall be issued and sold at the price or prices and under the terms, conditions and regulations as the issuing officials may prescribe, after notice of the sale, published at least once in at least three newspapers published in this State, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in this State or in the city of New York, the first notice to appear at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any bid in pursuance thereof may be rejected. In the event of rejection or failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of the advertised sale, may sell the bonds at a private sale at such price or prices and under the terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at a private sale, without advertisement.

13. Until permanent bonds are prepared, the issuing officials may

issue temporary bonds in the form and with those privileges as to their registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of the bonds and any repayment of the principal and interest on loans made to local government units pursuant to this act shall be paid to the State Treasurer to be held by the State Treasurer in a separate revolving fund, which shall be known as the "Stormwater Management and Combined Sewer Overflow Abatement Fund." The proceeds of this fund shall be deposited in those depositories as may be selected by the State Treasurer to the credit of the fund.

15. a. The moneys in the "Stormwater Management and Combined Sewer Overflow Abatement Fund" are specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act. However, no moneys in the fund shall be expended for those purposes, except as otherwise authorized by this act, without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" shall identify the project to be funded by the moneys.

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from any available moneys in any fund of the treasury of the State to the credit of the "Stormwater Management and Combined Sewer Overflow Abatement Fund" those sums as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of bonds.

c. Pending their application to the purposes provided in this act, the moneys in the "Stormwater Management and Combined Sewer Overflow Abatement Fund" may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of moneys in the "Stormwater Management and Combined Sewer Overflow Abatement Fund" shall be paid into the General Fund.

16. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and

delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon, the ownership thereof, and security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

17. The accrued interest, if any, received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

19. The issuing officials may issue refunding bonds in an amount not to exceed the amount necessary to effectuate the refinancing of any bonds issued pursuant to this act, at any time and from time to time, for the purpose of refinancing any bond or bonds issued pursuant to this act, subject to the following provisions:

a. Refunding bonds may be issued at any time prior to the maturity or redemption of the bonds to be refinanced thereby as the issuing officials shall determine.

b. Each series of refunding bonds may be issued in a sufficient amount to pay or to provide for the payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on the bonds to be refinanced to the date of payment of the outstanding bonds, the expense of issuing the refunding bonds and the expenses, if any, of paying the bonds to be refinanced.

c. No refunding bonds shall be issued unless the issuing officials shall first determine that the present value of the aggregate principal

amount of and interest on the refunding bonds is less than the present value of the aggregate principal amount of and interest on the bonds to be refinanced thereby; provided, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of those refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semiannual compounding and upon the price or prices paid to the State by the initial purchasers of those refunding bonds.

d. Any refinancing authorized hereunder may be effected by the sale of the refunding bonds and the application of the proceeds thereof to the immediate payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on those bonds to be refinanced to the date of payment of those bonds, the expenses of issuing the refunding bonds and the expenses, if any, of paying those bonds to be refinanced, or, to the extent not required for that immediate payment, shall be deposited, together with any other moneys legally available therefor, in trust with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, to be applied solely to the payment when due of the principal of, redemption premium, if any, and interest due and to become due on the bonds to be refinanced on or prior to the redemption date or maturity date thereof, as the case may be. The proceeds or moneys so held by the trustees or escrow agents may be invested in government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States; provided those government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as otherwise provided in this subsection, neither government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest on the bonds to be refinanced thereby; provided that any cash received from the principal or interest payments on those government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the trustees or escrow agents, and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due

the principal of, redemption premium, if any, and interest to become due on the bonds to be refinanced, on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from those reinvestments, to the extent not required for the payment of bonds, shall be paid over to the State, as received by the trustees or escrow agents. Notwithstanding anything to the contrary contained herein: (1) the trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (a) the purchase of bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all outstanding bonds so purchased or (b) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the outstanding bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and (2) in the event that on any date, as a result of any purchases and cancellations of the outstanding bonds or any purchases of different government securities as provided in this subsection, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which such deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on those remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of that excess to the State. Any amounts held by the State Treasurer in a separate fund or funds for the payment of the principal of, redemption premium, if any, and interest on bonds to be refinanced, as provided herein, shall, if so directed by the issuing officials, be transferred by the State Treasurer for deposit with one or more trustees or escrow agents, as provided herein, to be applied to the payment when due of the principal of, redemption premium, if any, and interest to become due on those bonds to be refinanced, as provided in this section, or be applied by the State Treasurer to the payment when due of the principal of, redemption premium, if any, and interest on

refunding bonds issued hereunder to refinance those bonds. The State Treasurer is authorized to enter into contracts with one or more trust companies or national or state banks, as provided herein, to act as trustees or escrow agents, as provided herein, subject to the approval of the issuing officials.

e. Notwithstanding the provisions of section 12 of this act, any series of refunding bonds issued pursuant to this section shall mature at any time or times not later than five years following the latest scheduled final maturity date, determined without regard to any redemptions prior thereto, of any of the bonds to be refunded thereby, and in no event later than 35 years following the date of issuance of that series of refunding bonds, and those refunding bonds may be sold at public or private sale at prices and under terms, conditions and regulations as the issuing officials may prescribe. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations, except as to sale provisions and to the extent therein otherwise expressly provided.

f. Upon the decision by the issuing officials to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the issuing officials shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the issuing officials relied when making the decision to issue refunding bonds. The report also shall disclose the intent of the issuing officials to issue and sell the refunding bonds at public or private sale and the reasons therefor.

g. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection f. of this section. The committee shall notify the issuing officials in writing of the approval or disapproval as expeditiously as possible.

h. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection g. of this section.

i. Within 30 days after the sale of the refunding bonds, the issuing officials shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of

the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

j. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the issuing officials, or to the Legislature, or both, as it deems appropriate.

20. Any bond or bonds issued hereunder shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds; provided that any cash received from the principal or interest payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien,

pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from the reinvestments shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien or pledge securing the bonds. Notwithstanding anything to the contrary contained herein: a. the trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and b. in the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities, as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which the deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on the remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of the excess to the State, free and clear of any trust, lien, pledge or assignment securing the refunding bonds.

21. Refunding bonds issued pursuant to section 19 of this act may be consolidated with bonds issued pursuant to section 6 of this act or with bonds issued pursuant to any other act for purposes of sale.

22. To provide funds to meet the interest and principal payment requirements for the bonds and refunding bonds issued under this act and outstanding, there is appropriated in the order following:

a. Revenue derived from the collection of taxes under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or so much thereof as may be required; and

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act are insufficient or not available, there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as are other taxes upon real and personal property. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year, the issuing officials, by resolution, determine that there are moneys in the General Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest and redemption premium, if any, payable in the ensuing calendar year, the issuing officials shall file the resolution in the office of the State Treasurer, whereupon the State Treasurer shall transfer the moneys to a separate fund to be designated by the State Treasurer, and shall pay the principal, redemption premium, if any, and interest out of that fund as the same shall become due and payable, and the other sources of payment of the principal, redemption premium, if any, and interest provided for in this section shall not then be available, and the receipts for the year from the tax specified in subsection a. of this section shall be considered and treated as part of the General Fund, available for general purposes.

23. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from

the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

24. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1989. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers be published therein, and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

If you approve of the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "Yes."

If you disapprove of the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to these markings respectively.

	Yes.	STORMWATER MANAGEMENT AND COMBINED SEWER OVERFLOW ABATEMENT BOND ACT OF 1989 Shall the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," which authorizes the State to issue bonds in the amount of \$50,000,000 for the purpose of providing grants and low interest loans to local government units for projects to manage stormwater and abate combined sewer overflows into the State's waters; and in a principal amount sufficient to refinance any of the bonds if the same will result in a present value savings; and providing the ways and means to pay the interest on the debt and also to pay and discharge the principal thereof, be approved?
	No.	INTERPRETIVE STATEMENT Approval of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," would authorize the sale of \$50,000,000 in State general obligation bonds for the purpose of providing grants and low interest loans to local government units for the costs of projects to manage stormwater and abate combined sewer overflows into the State's waters and other improper connections of stormwater and sewer systems. Combined sewer systems are those that carry both sanitary waste and stormwater runoff to a wastewater treatment plant. During a storm, part of the mixture of sewage and stormwater overflows untreated into the receiving body of water, causing water pollution. The act also authorizes the issuance of bonds in a sufficient amount to refinance any of these bonds if the same will result in a present value savings.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law of any kind or character as to notice or procedure, except as herein provided, need be adhered to.

The votes so cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of the election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there is a majority of all the votes cast for and against it at the election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

25. There is appropriated the sum of \$5,000 to the Department of State for expenses in connection with the publication of notice pursuant to section 24 of this act.

26. The commissioner shall submit to the State Treasurer and the commission with the department's annual budget request a plan for the expenditure of funds from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by funds from the "Stormwater Management and Combined Sewer Overflow Abatement Fund;" and an estimate of expenditures for the upcoming fiscal year.

27. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner shall submit to the relevant standing committees of the Legislature, as designated by the President of the Senate and the Speaker of the General Assembly, and to the Joint Budget Oversight Committee, or its successor, a copy of the plan called for under section 26 of this act, together with such changes therein as may have been required by the Governor's budget message.

28. The commissioner shall for each fiscal year develop a priority system for stormwater management system and combined sewer overflow abatement projects and shall establish the ranking criteria and funding policies for the projects therefor. The commissioner shall

set forth a stormwater management system and combined sewer overflow abatement project priority list for funding for each fiscal year and shall include the aggregate amount of funds to be authorized for these purposes. No monies shall be expended for grants or loans in a fiscal year for any stormwater management system or combined sewer overflow abatement project unless the expenditure is authorized pursuant to an appropriations act.

29. Not less than 30 days prior to entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the commissioner shall report to and consult with the Joint Budget Oversight Committee, or its successor.

30. All appropriations from the bond fund shall be by specific allocation for each project, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee or its successor.

31. This section and sections 24 and 25 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 24.

Approved August 17, 1989.

CHAPTER 182

AN ACT to amend the "Hazardous Discharge Bond Act," (P.L.1981, c.275), as amended by P.L.1986, c.29, and the "Hazardous Discharge Bond Act of 1986," (P.L.1986, c.113), to authorize the use of the proceeds from bonds issued pursuant to these acts for the remediation of contaminated groundwater supplies, providing for the submission of this act to the people at a general election, and providing an appropriation therefor.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. The title of P.L.1981, c.275 is amended to read as follows:

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$100,000,000.00 for the identification and cleanup and removal of hazardous discharges, for the provision of financial aid to local government units for the costs of the remediation of contaminated groundwater sup-

plies and the costs of local wellhead and aquifer protection projects, and for the provision of funds for State and local wellhead and aquifer protection projects; providing the ways and means to pay the interest of the debt and also to pay and discharge the principal thereof; providing for the submission of this act to the people at a general election; and making an appropriation.

2. Section 2 of P.L.1981, c.275 is amended to read as follows:

2. The Legislature finds and declares that the improper, irresponsible, and often illegal discharge of hazardous substances presents a grave threat to the public health and safety, and to the environment; that the dangers posed by these discharges can be minimized only by prompt identification and cleanup and removal of these hazardous discharges; that existing funding sources are not adequate to finance these cleanup and removal operations; and that it is therefore in the best interests of all citizens of this State to provide a funding mechanism to finance the prompt identification and efficient cleanup and removal of discharges of hazardous substances.

The Legislature further finds and declares that it is in the best interests of all citizens of this State to provide financial aid to local government units for the protection of groundwater supplies, the treatment or replacement of contaminated water supplies, and the protection of wellheads and aquifers, and to provide funds for State wellhead and aquifer protection projects.

3. Section 3 of P.L.1981, c.275 is amended to read as follows:

3. As used in this act:

a. "Cost" means, in addition to the usual connotations thereof, the interest or discount on bonds; cost of issuance of bonds; cost of inspection, testing, legal, financial or other professional services, estimates, and advice; cost of organization, administrative, operating, and other work and services, including salaries, supplies, equipment, and materials necessary to administer this act;

b. "Hazardous discharge" means the actual or imminent release, spill, leak, emission, or dumping of any hazardous substance into the environment which represents a threat to the public health and safety or the environment;

c. "Fund" means the "Hazardous Discharge Fund" created pursuant to section 14 of this act;

d. "Hazardous substances" means the substances included on the environmental hazardous substance list adopted by the New Jersey Department of Environmental Protection pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); such elements and compounds, including petroleum products, which are defined as such by the New Jersey Department of Environmental Protection, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311 of the "Federal Water Pollution Control Act Amendments of 1972" (33 U.S.C. § 1321) as amended by the "Clean Water Act of 1977" (33 U.S.C. § 1251 et seq.), as amended; the list of toxic pollutants designated by Congress or the Environmental Protection Agency pursuant to section 307 of that act; and the list of hazardous substances adopted by the Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," Pub.L. 96-510 (42 U.S.C. § 9601 et seq.), as amended; except that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of this act;

e. "Construct" and "construction" means, in addition to the usual meaning thereof, acts of construction, reconstruction, improvement, rehabilitation, relocation, demolition, renewal, repair, replacement, extension, improvement, protection, or consolidation, or any combination thereof, of a public or private well, groundwater supply or water supply facility; and includes the sealing of contaminated wells and closure of contaminated groundwater supplies;

f. "Contamination" means the presence or potential presence, as identified by the department, of a hazardous substance or other contaminant as defined in P.L.1977, c.224 (C.58:12A-1 et seq.) at a level which exceeds the primary drinking water regulations adopted pursuant to P.L.1977, c.224, or of any contaminant for which drinking water standards have not been adopted, at or in excess of an action level set by the department, at its discretion, and based upon its finding that the action level is necessary for the protection of public health. For the purposes of this act, and project eligibility, any parameters specified under secondary drinking water regulations adopted by the department shall not be considered contaminants;

g. "Department" means the Department of Environmental Protection;

h. "Local government unit" means a county, municipality, mu-

municipal or county utilities authority, municipal water district, joint meeting or any other political subdivision of the State;

i. "Project" means any work relating to the treatment or replacement of contaminated public or private groundwater supplies or the construction of water supply facilities for the provision of potable water, or relating to wellhead and aquifer protection, upon a determination by the department that groundwater sources are contaminated;

j. "Water supply facilities" means the plants, structures, interconnections between existing water supply systems, machinery, equipment and other property, real, personal, and mixed, constructed or operated, or to be constructed or operated, for the purposes of augmenting the natural water resources of the State and making available a supply of water for all uses, and any and all appurtenances necessary, useful or convenient for making available, collecting, impounding, storing, improving, treating and filtering, or transmitting water.

4. Section 4 of P.L.1981, c.275 is amended to read as follows:

4. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$100,000,000.00, for the purposes of (1) the identification and cleanup and removal of hazardous discharges; (2) the provision of low or zero interest loans to local government units that utilize groundwater as a source of potable water for costs incurred for the construction of water supply treatment or replacement projects when the groundwater is found to be contaminated, including construction of a water supply facility to replace a contaminated water supply, where such contamination is directly caused by hazardous discharges the identification and cleanup and removal of which are eligible costs under this act and where such treatment or replacement projects are carried out at the same time as or subsequent to such cleanup and removal; and (3) the provision of funds for the costs of State and local wellhead and aquifer protection projects, and the provision of low or zero interest loans to local government units for the cost of local wellhead and aquifer projects.

b. Loans made to local government units pursuant to this act may be in an amount up to the total cost of construction of a project. The interest rate on any low interest loan made pursuant to this act shall be established in each act appropriating monies from the "Hazardous Discharge Fund" for the purpose of making low interest loans.

Any State and local shares of a project shall be computed after deducting any federal contribution.

5. The title of P.L.1986, c.113 is amended to read as follows:

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$200,000,000.00 to provide moneys for the identification, cleanup and removal of hazardous discharges, for the provision of financial aid to local government units for the costs of the remediation of contaminated groundwater supplies and the costs of local wellhead and aquifer protection projects, and for the provision of funds for State and local wellhead and aquifer protection projects; authorizing the issuance of refunding bonds; providing the ways and means to pay and discharge the principal and interest thereof; providing for the submission of this act to the people at the general election; and making an appropriation.

6. Section 2 of P.L.1986, c.113 is amended to read as follows:

2. The Legislature finds and declares that the improper, irresponsible, and often illegal discharge of hazardous substances presents a grave threat to the public health and safety, and to the environment, that the dangers posed by these discharges can be minimized only by prompt identification, cleanup and removal of these hazardous discharges, that existing funding sources are not adequate to finance these identification, cleanup and removal operations, and that it is therefore in the best interests of all citizens of this State to provide a funding mechanism to finance the prompt identification, efficient cleanup and removal of discharges of hazardous substances.

The Legislature further finds and declares that it is in the best interests of all citizens of this State to provide financial aid to local government units for the protection of groundwater supplies, the treatment or replacement of contaminated water supplies, and the protection of wellheads and aquifers, and to provide funds for State wellhead and aquifer protection projects.

7. Section 3 of P.L.1986, c.113 is amended to read as follows:

3. As used in this act:

- a. "Bonds" means the bonds authorized to be issued, or issued, under this act;
- b. "Cost" means the interest or discount on bonds; cost of is-

suance of bonds; the cost of inspection, appraisal, legal, financial, and other professional services, estimates, and advice; and the cost of organizational, administrative and other work and services, including salaries, supplies, equipment, and materials necessary to administer this act;

c. "Government securities" means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States, including obligations of any federal agency to the extent those obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in those obligations of, or unconditionally guaranteed by, the United States or in specified portions of those obligations, which may consist of the principal of, or the interest on, those obligations;

d. "Hazardous discharge" means the actual or imminent release, spill, leak, emission or dumping of any hazardous substance into the environment which represents a threat to the public health and safety or the environment;

e. "Hazardous substances" means the substances included on the environmental hazardous substance list adopted by the New Jersey Department of Environmental Protection pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); those elements and compounds, including petroleum products, which are defined as such by the New Jersey Department of Environmental Protection, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311 of the "Federal Water Pollution Control Act Amendments of 1972," Pub.L.92-500 (33 U.S.C. § 1321), as amended by the "Clean Water Act of 1977," Pub.L.95-217 (33 U.S.C. § 1251 et seq.), as amended; the list of toxic pollutants designated by Congress or the Environmental Protection Agency pursuant to section 307 of the former act (33 U.S.C. § 1317); and the list of hazardous substances adopted by the Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," Pub.L.96-510 (42 U.S.C. § 9601 et seq.), as amended; except that sewage and sewage sludge shall not be considered as hazardous substances for the purpose of this act;

f. "Construct" and "construction" means, in addition to the usual meaning thereof, acts of construction, reconstruction, improve-

ment, rehabilitation, relocation, demolition, renewal, repair, replacement, extension, improvement, protection, or consolidation, or any combination thereof, of a public or private well, groundwater supply or water supply facility; and includes the sealing of contaminated wells and closure of contaminated groundwater supplies;

g. "Contamination" means the presence or potential presence, as identified by the department, of a hazardous substance or other contaminant as defined in P.L.1977, c.224 (C.58:12A-1 et seq.) at a level which exceeds the primary drinking water regulations adopted pursuant to P.L.1977, c.224, or of any contaminant for which drinking water standards have not been adopted, at or in excess of an action level set by the department, at its discretion, and based upon its finding that the action level is necessary for the protection of public health. For the purposes of this act, and project eligibility, any parameters specified under secondary drinking water regulations adopted by the department shall not be considered contaminants;

h. "Department" means the Department of Environmental Protection;

i. "Local government unit" means a county, municipality, municipal or county utilities authority, municipal water district, joint meeting or any other political subdivision of the State;

j. "Project" means any work relating to the treatment or replacement of contaminated public or private groundwater supplies or the construction of water supply facilities for the provision of potable water, or relating to wellhead and aquifer protection, upon a determination by the department that groundwater sources are contaminated;

k. "Water supply facilities" means the plants, structures, interconnections between existing water supply systems, machinery, equipment and other property, real, personal, and mixed, constructed or operated, or to be constructed or operated, for the purposes of augmenting the natural water resources of the State and making available a supply of water for all uses, and any and all appurtenances necessary, useful or convenient for making available, collecting, impounding, storing, improving, treating and filtering, or transmitting water.

8. Section 5 of P.L.1986, c.113 is amended to read as follows:

5. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$200,000,000.00 for the purposes

of financing the cost of (1) the identification, cleanup and removal of hazardous discharges; (2) the provision of low or zero interest loans to local government units that utilize groundwater as a source of potable water for costs incurred for the construction of water supply treatment or replacement projects when the groundwater is found to be contaminated, including construction of a water supply facility to replace a contaminated water supply, where such contamination is directly caused by hazardous discharges the identification, cleanup and removal of which are eligible costs under this act and where such treatment or replacement projects are carried out at the same time as or subsequent to such cleanup and removal; and (3) the provision of funds for the costs of State and local wellhead and aquifer protection projects, and the provision of low or zero interest loans to local government units for the cost of local wellhead and aquifer projects.

b. Loans made to local government units pursuant to this act may be in an amount up to the total cost of construction of a project. The interest rate on any low interest loan made pursuant to this act shall be established in each act appropriating moneys from the "Hazardous Discharge Fund of 1986" for the purpose of making low interest loans. Any State and local shares of a project shall be computed after deducting any federal contribution.

9. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1989. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers be published therein, and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

If you approve of the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "Yes."

If you disapprove of the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to these markings respectively.

	Yes.	USE OF 1981 AND 1986 HAZARDOUS DISCHARGE BOND MONIES FOR CLEANUP AND PROTECTION OF UNDERGROUND DRINKING WATER SUPPLIES Shall the amendments to the 1981 "Hazardous Discharge Bond Act" and the "Hazardous Discharge Bond Act of 1986," authorizing hazardous discharge bond revenues to be used for the protection of underground drinking water supplies, and for providing low or zero interest loans to local government units to fund drinking water supply treatment or replacement projects when existing underground drinking water supplies are contaminated by hazardous discharges eligible for cleanup and removal under the bond acts, be approved?
	No.	INTERPRETIVE STATEMENT Approval of this act would expand the purposes for which the 1981 and 1986 Hazardous Discharge Bond monies could be used, by permitting the bond monies to be used by the State to fund projects designed to protect the underground drinking water supplies of the State from contamination by hazardous substances, and to make loans to local government units to finance drinking water supply treatment or replacement projects when existing underground drinking water supplies are contaminated by hazardous discharges eligible for cleanup and removal under the bond acts, provided that the treatment or replacement projects are carried out at the same time as or subsequent to the cleanup and removal.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law of any kind or character

as to notice or procedure, except as herein provided, need be adhered to.

The votes so cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of the election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there is a majority of all the votes cast for and against it at the election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

10. There is appropriated the sum of \$5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 9 of this act.

11. This section and sections 9 and 10 shall take effect immediately, and the remainder of this act shall take effect as and when provided in section 9.

Approved August 17, 1989.

CHAPTER 183

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of \$300,000,000 to provide moneys for public acquisition and development of lands for recreation and conservation purposes, for farmland development easement and fee simple absolute acquisitions, for soil and water conservation projects, and for development potential transfer banks; establishing certain funds for those purposes; authorizing the issuance of refunding bonds; providing the ways and means to pay and discharge the principal and interest on the bonds and refunding bonds; providing for the submission of this act to the people at a general election; and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Open Space Preservation Bond Act of 1989."

2. The Legislature finds and declares that the provision of lands for public recreation and the conservation of natural resources promotes the public health, prosperity and general welfare and is a proper responsibility of State government; that lands now dedicated to these purposes will not be adequate to meet the needs of an expanding population in years to come; that such lands as are available and appropriate for these purposes will gradually disappear as their cost correspondingly increases; that it is necessary to provide assistance in the form of grants and loans to local government units and matching grants to qualifying tax exempt nonprofit organizations to acquire lands that have significant recreation and conservation attributes; and that it is also necessary to provide funds to assure that lands that have been or may hereafter be acquired for recreation and conservation purposes are developed to provide public recreation, preserve historic resources, and provide conservation opportunities and to implement the New Jersey Statewide Comprehensive Outdoor Recreation Plan.

The Legislature further finds that agriculture plays an integral role in the prosperity and well-being of the State as well as providing a fresh and abundant supply of food and fiber for its citizens; that agricultural land resources face an imminent threat of permanent conversion to non-farm uses; that the retention and development of an economically viable agricultural industry is of high public priority for New Jersey; that the issuance of bonds is necessary and desirable to purchase fee simple absolute titles to farmland for the purpose of offering the farmland for resale with agricultural deed restrictions; to acquire, in cooperation with counties and municipalities, development easements on farmland; and to assist, through cost-sharing programs, the long-term development and management of farmland and the State's natural resources through soil and water conservation projects and programs; and that the provision of moneys to fund development potential transfer banks is essential to a successful development potential transfer program.

3. As used in this act:

“Bonds” mean the bonds authorized to be issued, or issued, under this act;

“Commission” means the New Jersey Commission on Capital Budgeting and Planning;

“Commissioner” means the Commissioner of the Department of Environmental Protection;

“Cost” means the expenses incurred in connection with: all things deemed necessary or useful and convenient in connection with the acquisition and development of lands by or with the assistance of the State, for recreation and conservation purposes, for the purchase of development easements or fee simple absolute titles to farmland, or for soil and water conservation projects, as defined herein, including, the interest or discount on bonds; the issuance of bonds; the procurement or provision of engineering, inspection, relocation services, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; the services of a bond registrar or an authenticating agent; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; and reimbursement of any fund of the State of moneys which may have been transferred or advanced therefrom to any applicable fund created by this act, or of any moneys heretofore expended for, or in connection with, this acquisition or development;

“Development” means any improvement to land or water areas designed to expand and enhance their utilization for recreation and conservation purposes, including, but not limited to, site preparation, landscaping, and structures or facilities which are substantially consistent with the natural setting and topographical conditions. These structures and facilities may include, but are not limited to, access roads, interpretative facilities, parking areas, utilities and comfort facilities;

“Development easement” means an interest in land, less than fee simple absolute title thereto, which interest represents the right to develop such lands for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential;

“Farmland” means land identified as prime, unique or of State-wide importance according to criteria adopted by the New Jersey State Soil Conservation Committee, and land of local importance as identified by local agricultural preservation agencies established by law in cooperation with local soil conservation districts, and which qualifies for lower property taxation pursuant to the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.) and any other land on the farm which is necessary to accommodate farm practices as determined by the Department of Agriculture;

“Farmland preservation program” means any program authorized by law which shall have as its principal purpose the long-term preser-

vation of significant masses of reasonably contiguous agricultural land and the maintenance and support of increased agricultural production as the first priority use of that land;

“Government securities” means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent those obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in those obligations of, or unconditionally guaranteed by, the United States of America or in specified portions of those obligations which may consist of the principal of, or the interest on, those obligations;

“Land” or “lands” means real property, including improvements thereof or thereon, rights-of-way, water, riparian and other rights, easements, privileges and all other rights or interests of any kind or description in, relating to or connected with real property;

“Local government unit” means a municipality, county or other political subdivision of this State authorized to administer, protect, develop and maintain lands for recreation and conservation purposes, or any agency thereof, the primary purpose of which is to administer, protect, develop and maintain lands for recreation and conservation purposes;

“Qualifying tax exempt nonprofit organization” means a tax exempt nonprofit organization that qualifies for a matching grant pursuant to subsection d. of section 9 of this act;

“Recreation and conservation purposes” means the use of lands for parks, natural areas, ecological and biological study, historic areas, forests, camping, fishing, water reserves, wildlife preserves, hunting, boating, winter sports and similar uses for either public outdoor recreation or conservation of natural resources, or both;

“Secretary” means the Secretary of Agriculture; and

“Soil and water conservation project” means any project designed for the control and prevention of soil erosion and sediment damages, the control of nonpoint source pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soil to achieve maximum agricultural productivity.

4. The commissioner and the secretary shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

5. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$230,000,000 for the purposes of: providing moneys to meet the cost of public acquisition and development of lands by the State for recreation and conservation purposes; providing State grants and loans to assist local government units to acquire and develop lands for recreation and conservation purposes; and providing State matching grants to assist qualifying tax exempt nonprofit organizations to acquire lands for recreation and conservation purposes, to be allocated as follows:

a. \$80,000,000 for the acquisition and development of lands by the State for recreation and conservation purposes;

b. \$140,000,000 for State grants and loans to assist local government units to acquire and develop lands for recreation and conservation purposes, of which amount, \$20,000,000 shall be for grants for up to 50% of the cost of acquisition or development of lands by local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.); and

c. \$10,000,000 for State grants, on a 50% matching basis, to qualifying tax exempt nonprofit organizations to acquire lands for recreation and conservation purposes.

To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of New Jersey of property under the provisions of this section, the State shall pay annually on October 1 to each municipality in which property is so acquired, for a period of 13 years following an acquisition the following amounts: in the first year a sum of money equal to the tax last assessed and last paid by the taxpayer upon this land and the improvements thereon for the taxable year immediately prior to the time of its acquisition and thereafter the following percentages of the amount paid in the first year: second year, 92%; third year, 84%; fourth year, 76%; fifth year, 68%; sixth year, 60%; seventh year, 52%; eighth year, 44%; ninth year, 36%; 10th year, 28%; 11th year, 20%; 12th year, 12%; 13th year, 4%. In the event that land acquired by the State pursuant to this act was assessed at an agricultural and horticultural use valuation in accordance with provisions of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its acquisition by the State, no rollback tax

pursuant to section 8 of P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall this rollback tax be applicable in determining the annual payments to be made by the State to the municipality in which this land is located.

All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of these municipalities, and to accomplish this end the sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

6. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$50,000,000 for the purpose of the preservation of farmland for agricultural use and production. The proceeds from the sale of the bonds shall be for appropriation to the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4): a. to provide grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements; b. for up to 100% of the cost of acquisition of development easements, under such emergency conditions as the State Agriculture Development Committee determines; c. for the cost of acquisition of fee simple absolute titles to farmland which shall be offered for resale with agricultural deed restrictions; and d. to provide grants to landowners for up to 50% of the cost of soil and water conservation projects. All acquisitions or grants made pursuant to this section shall be with respect to land devoted to farmland preservation under programs established by law.

7. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$20,000,000 for the purpose of funding development potential transfer banks.

8. Moneys provided for land acquisitions to be acquired and developed by the State for recreation and conservation purposes using the proceeds of bonds issued by the State under this act shall include 100% of the costs of acquisition and development of these lands.

9. a. Except for those grants to local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) as provided for in subsection b. of section 5 of this act, a grant by the State for lands acquired or developed by a local government unit

for recreation and conservation purposes shall include up to 25% of the cost of acquisition or development of these lands by a local government unit; provided, however, that at such times as the balance of the "1989 New Jersey Green Trust Fund," exclusive of the moneys for grants to local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), exceeds \$83,000,000, the commissioner in consultation with the State Treasurer, may increase the State's share of the cost of acquisition to a maximum of 50%.

b. A loan by the State for lands to be acquired or developed by a local government unit shall include up to 100% of the cost of acquisition or development of these lands by a local government unit. The local government unit share of the cost of this acquisition, if any, may be reduced by the (1) fair market value, as determined by the commissioner, of any portion of the lands to be acquired which have been donated to, or otherwise received without cost by, any of the local government units concerned; or (2) in the case of a conveyance of the lands, or any portion thereof, to any of the local government units concerned at less than fair market value, by the difference between fair market value thereof at the time of the conveyance and the conveyance price thereof to the local government unit or units.

c. Loans made to local government units from the "1989 New Jersey Green Trust Fund" established pursuant to section 19 of this act shall bear interest of not more than 2% per year, and shall be for a term of not more than 20 years.

d. A grant by the State for lands to be acquired by a qualifying tax exempt nonprofit organization for recreation and conservation purposes shall include 50% of the cost of acquisition of these lands by a qualifying tax exempt nonprofit organization. To qualify to receive a grant, the board of directors or governing body of the applying tax exempt nonprofit organization shall:

(1) demonstrate to the commissioner that it qualifies as a charitable conservancy for the purposes of P.L.1979, c.378 (C.13:8B-1 et seq.);

(2) demonstrate that it has the resources to match the grant requested;

(3) agree to make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith;

(4) agree not to sell, lease, exchange, or donate the lands except to the State, a local government unit, or another qualifying tax exempt nonprofit organization for recreation and conservation purposes; and

(5) agree to execute and donate to the State at no charge a conservation restriction or historic preservation restriction, as the case may be, pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.), on the lands to be acquired utilizing the grant.

10. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "1989 New Jersey Open Space Preservation Bonds." They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The bonds may be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the respective dates of their issuance.

11. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

12. Bonds issued in accordance with the provisions of this act are a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest and redemption premium thereon, if any, when due, and for the payment of the principal thereof at maturity or earlier redemption date. The principal of and interest on the bonds are exempt from taxation by the State or by any county, municipality or other taxing district of the State.

13. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signa-

ture of the Director of the Division of Budget and Accounting in the Department of the Treasury and may be manually authenticated by an authenticating agent or bond registrar, as the issuing officials shall determine. Interest coupons, if any, attached to the bonds shall be signed by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury. The bonds may be issued notwithstanding that an official signing them or whose manual or facsimile signature appears on the bonds or coupons has ceased to hold office at the time of issuance, or at the time of the delivery of the bonds to the purchaser thereof.

14. a. The bonds shall recite that they are issued for the purposes set forth in section 5, 6, or 7 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election held in the month of November, 1989, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

b. The bonds shall be issued in those denominations and in the form or forms, whether coupon, fully-registered or book-entry, and with or without provisions for interchangeability thereof, as may be determined by the issuing officials.

15. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials, which interest shall be payable semiannually; except that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

16. The bonds shall be issued and sold at the price or prices and under the terms, conditions and regulations as the issuing officials may prescribe, after notice of the sale, published at least once in at least three newspapers published in this State, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in this State or in the city of New York, the first notice to appear at least five days prior to the day of bidding.

The notice of sale may contain a provision to the effect that any bid in pursuance thereof may be rejected. In the event of rejection or failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of the advertised sale, may sell the bonds at a private sale at such price or prices and under the terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at a private sale, without advertisement.

17. Until permanent bonds are prepared, the issuing officials may issue temporary bonds in the form and with those privileges as to their registration and exchange for permanent bonds as may be determined by the issuing officials.

18. The State Treasurer shall establish a fund, to be known as the "1989 New Jersey Green Acres Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for State acquisitions as set forth in subsection a. of section 5 of this act. These moneys in the fund are specifically dedicated and shall be applied to the cost of these purposes. Such grants, contributions, donations and reimbursement from federal aid programs as may be lawfully used for the purposes of making grants to local government units and matching grants to qualifying tax exempt and nonprofit organizations for recreation and conservation purposes, shall also be held in the "1989 New Jersey Green Acres Fund." The moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1989 New Jersey Green Acres Fund" shall identify the particular project or projects to be funded with such moneys.

19. The State Treasurer shall establish a revolving, nonlapsing fund to be known as the "1989 New Jersey Green Trust Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for grants and loans as set forth in subsection b. of section 5 of this act. Moneys derived from the payment of interest and principal on the loans to local government units authorized in subsection b. of section 5 of this act, and such grants, contributions, dona-

tions and reimbursement from federal aid programs as may lawfully be used for the purposes of making grants and loans to local government units for recreation and conservation purposes, shall also be held in the "1989 New Jersey Green Trust Fund."

20. Except as otherwise authorized by this act, the moneys in the "1989 New Jersey Green Trust Fund" are specifically dedicated and shall be applied to the cost of providing grants and loans as set forth in subsection b. of section 5 of this act. Moneys in this fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1989 New Jersey Green Trust Fund" shall identify the particular project or projects to be funded with such moneys.

21. Any proceeds from the sale of lands acquired with funds made available pursuant to P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; and P.L.1983, c.354, and any proceeds from the sale of lands acquired for recreation and conservation purposes with funds made available pursuant to P.L.1987, c.265, may be deposited in the "1989 New Jersey Green Trust Fund" established in this act, or in any fund established in any subsequent bond act enacted for similar purposes.

22. The State Treasurer shall establish a fund to be known as the "1989 Farmland Preservation Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this act for the acquisition of development easements or fee simple absolute titles on farmland and for soil and water conservation projects, all as set forth in section 6 of this act. The moneys in this fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 6 of this act. No moneys in this fund shall be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys.

23. The State Treasurer shall establish a fund to be known as the "1989 Development Potential Transfer Bank Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this

act for funding development potential transfer banks as set forth in section 7 of this act. The moneys in this fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 7 of this act. No moneys in this fund shall be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys.

24. a. At any time prior to the issuance and sale of bonds authorized to be issued under this act, the State Treasurer is authorized to transfer from available money in any fund of the treasury of the State to the credit of the "1989 New Jersey Green Acres Fund," the "1989 New Jersey Green Trust Fund," the "1989 Farmland Preservation Fund," or the "1989 Development Potential Transfer Bank Fund," such sums as may be deemed necessary for the applicable purposes of this act by the State House Commission. The sums so transferred shall be returned to the same fund of the treasury by the State Treasurer from the proceeds of the sale of the first issue of those bonds.

b. Pending their application to the purposes provided in the applicable provisions of this act, moneys in the "1989 New Jersey Green Acres Fund," the "1989 New Jersey Green Trust Fund," the "1989 Farmland Preservation Fund," and the "1989 Development Potential Transfer Bank Fund," may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of moneys in these funds shall be redeposited and become part of the respective funds.

25. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon, the ownership thereof, and security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

26. The accrued interest, if any, received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties

imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

27. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

28. The issuing officials may issue refunding bonds in an amount not to exceed the amount necessary to effectuate the refinancing of any bonds issued pursuant to this act, at any time and from time to time, for the purpose of refinancing any bond or bonds issued pursuant to this act, subject to the following provisions:

a. Refunding bonds may be issued at any time prior to the maturity or redemption of the bonds to be refinanced thereby as the issuing officials shall determine.

b. Each series of refunding bonds may be issued in a sufficient amount to pay or to provide for the payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on the bonds to be refinanced to the date of payment of the outstanding bonds, the expense of issuing the refunding bonds and the expenses, if any, of paying the bonds to be refinanced.

c. No refunding bonds shall be issued unless the issuing officials shall first determine that the present value of the aggregate principal amount of and interest on the refunding bonds is less than the present value of the aggregate principal amount of and interest on the bonds to be refinanced thereby; provided, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of those refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semiannual compounding and upon the price or prices paid to the State by the initial purchasers of those refunding bonds.

d. Any refinancing authorized hereunder may be effected by the sale of the refunding bonds and the application of the proceeds thereof to the immediate payment of the principal of the bonds to

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be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on those bonds to be refinanced to the date of payment of those bonds, the expenses of issuing the refunding bonds and the expenses, if any, of paying those bonds to be refinanced, or, to the extent not required for that immediate payment, shall be deposited, together with any other moneys legally available therefor, in trust with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, to be applied solely to the payment when due of the principal of, redemption premium, if any, and interest due and to become due on the bonds to be refinanced on or prior to the redemption date or maturity date thereof, as the case may be. The proceeds or moneys so held by the trustees or escrow agents may be invested in government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States; provided those government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as otherwise provided in this subsection, neither government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest on the bonds to be refinanced thereby; provided that any cash received from the principal or interest payments on those government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the trustees or escrow agents, and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds to be refinanced, on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from those reinvestments, to the extent not required for the payment of bonds, shall be paid over to the State, as received by the trustees or escrow agents. Notwithstanding anything to the contrary contained herein: (1) the trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (a) the purchase of bonds which were refinanced by the deposit with the trustees or

escrow agents of the moneys and government securities and immediately thereafter cancel all outstanding bonds so purchased or (b) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the outstanding bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and (2) in the event that on any date, as a result of any purchases and cancellations of the outstanding bonds or any purchases of different government securities as provided in this subsection, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which such deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on those remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of that excess to the State. Any amounts held by the State Treasurer in a separate fund or funds for the payment of the principal of, redemption premium, if any, and interest on bonds to be refinanced, as provided herein, shall, if so directed by the issuing officials, be transferred by the State Treasurer for deposit with one or more trustees or escrow agents, as provided herein, to be applied to the payment when due of the principal of, redemption premium, if any, and interest to become due on those bonds to be refinanced, as provided in this section, or be applied by the State Treasurer to the payment when due of the principal of, redemption premium, if any, and interest on refunding bonds issued hereunder to refinance those bonds. The State Treasurer is authorized to enter into contracts with one or more trust companies or national or state banks, as provided herein, to act as trustees or escrow agents, as provided herein, subject to the approval of the issuing officials.

e. Notwithstanding the provisions of section 16 of this act, any series of refunding bonds issued pursuant to this section shall mature at any time or times not later than five years following the latest scheduled final maturity date, determined without regard to any redemptions prior thereto, of any of the bonds to be refunded thereby, and in no event later than 35 years following the date of issuance

of that series of refunding bonds, and those refunding bonds may be sold at public or private sale at prices and under terms, conditions and regulations as the issuing officials may prescribe. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations, except as to sale provisions and to the extent therein otherwise expressly provided.

f. Upon the decision by the issuing officials to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the issuing officials shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the issuing officials relied when making the decision to issue refunding bonds. The report also shall disclose the intent of the issuing officials to issue and sell the refunding bonds at public or private sale and the reasons therefor.

g. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection f. of this section. The committee, or its successor, shall notify the issuing officials in writing of the approval or disapproval as expeditiously as possible.

h. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection g. of this section.

i. Within 30 days after the sale of the refunding bonds, the issuing officials shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

j. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the issuing officials, or to the Legislature, or both, as it deems appropriate.

29. Any bond or bonds issued hereunder shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the

State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds; provided that any cash received from the principal or interest payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien, pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from the reinvestments shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien or pledge securing the bonds. Notwithstanding anything to the contrary contained herein: a. the trustees or escrow agents shall, if so directed

by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and b. in the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities, as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which the deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on the remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of the excess to the State, free and clear of any trust, lien, pledge or assignment securing the refunding bonds.

30. Refunding bonds issued pursuant to section 28 of this act may be consolidated with bonds issued pursuant to section 10 of this act or with bonds issued pursuant to any other act for purposes of sale.

31. To provide funds to meet the interest and principal payment requirements for the bonds and refunding bonds issued under this act and outstanding, there is appropriated in the order following:

a. Revenue derived from the collection of taxes under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or so much thereof as may be required; and

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act are insufficient or not available, there shall be assessed, levied and collected annually in each of the municipalities

of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as are other taxes upon real and personal property. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year, the issuing officials, by resolution, determine that there are moneys in the General Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest and redemption premium, if any, payable in the ensuing calendar year, the issuing officials shall file the resolution in the office of the State Treasurer, whereupon the State Treasurer shall transfer the moneys to a separate fund to be designated by the State Treasurer, and shall pay the principal, redemption premium, if any, and interest out of that fund as the same shall become due and payable, and the other sources of payment of the principal, redemption premium, if any, and interest provided for in this section shall not then be available, and the receipts for the year from the tax specified in subsection a. of this section shall be considered and treated as part of the General Fund, available for general purposes.

32. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied

and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

33. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1989. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers be published therein, and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

If you approve of the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "Yes."

If you disapprove of the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to these markings respectively.

		OPEN SPACE PRESERVATION BOND ISSUE Shall the "Open Space Preservation Bond Act of 1989," which authorizes the State to issue bonds in the amount of \$300,000,000 to provide moneys to meet the cost of public acquisition and development of lands for recreation and conservation purposes, to provide moneys for farmland development easement and fee simple absolute acquisitions, to provide moneys for soil and water conservation projects, to provide funding for development potential transfer banks, and to provide grants and low-interest loans to local government units
	Yes.	

		and matching grants to qualifying tax exempt nonprofit organizations to help meet the cost of public acquisition and development of lands for recreation and conservation purposes; and in a principal amount sufficient to refinance any of the bonds if the same will result in a present value savings; and providing the ways and means to pay and discharge the principal and interest thereof, be approved?
	No.	INTERPRETIVE STATEMENT Approval of this act would authorize the sale of \$300,000,000 in State general obligation bonds to be used for acquiring and developing lands for recreation and conservation purposes, purchasing farmland or its development rights, funding farmland soil and water conservation projects, and funding development potential transfer banks. The revenue raised for conservation or recreation purposes from the bonds would be used for State projects and for grants and low-interest loans to local governments for local projects, and matching grants to qualifying tax exempt nonprofit organizations. The farmland acquisition and soil and water conservation moneys would be used for existing farmland preservation programs. The act also authorizes the issuance of bonds in a sufficient amount to refinance any of these bonds if the same will result in a present value savings.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law of any kind or character as to notice or procedure, except as herein provided, need be adhered to.

The votes so cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of the election had in the same

manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there is a majority of all the votes cast for and against it at the election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

34. There is appropriated the sum of \$5,000 to the Department of State for expenses in connection with the publication of notice pursuant to section 33 of this act.

35. a. The secretary shall adopt, pursuant to law, rules and regulations necessary to carry out the provisions of this act.

b. The commissioner shall adopt, pursuant to law, rules and regulations necessary to implement the provisions of this act, including rules and regulations governing the awarding and use of grants and loans including, but not limited to, eligibility requirements, procedures for the submission of applications, standards for the evaluation of applications, requirements for the reporting by the recipients of the expenditure of funds, and any limitations, restrictions or requirements concerning the use of a grant or loan as the commissioner may prescribe.

36. The commissioner and the secretary, as appropriate, shall submit to the State Treasurer and the commission with the respective department's annual budget request a plan for the expenditure of funds from the "1989 New Jersey Green Acres Fund," the "1989 New Jersey Green Trust Fund," the "1989 Farmland Preservation Fund," and the "1989 Development Potential Transfer Bank Fund," for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by funds from the respective funds; and an estimate of expenditures for the upcoming fiscal year.

37. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner and the secretary shall submit to the Senate Natural Resources and Agriculture Committee and the General Assembly Conservation, Natural Resources and Energy Committee, or their successors, and to the Joint Budget Oversight Committee, or its successor, a copy of the

plan called for under section 36 of this act, together with such changes therein as may have been required by the Governor's budget message.

38. Not less than 30 days prior to entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the commissioner or the secretary, as appropriate, shall report to and consult with the Joint Budget Oversight Committee, or its successor.

39. All appropriations from the bond fund shall be by specific allocation for each project, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee or its successor.

40. This section and sections 33 and 34 of this act shall take effect immediately and the remainder of this act shall take effect as provided in section 33.

Approved August 17, 1989.

CHAPTER 184

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of \$125,000,000 for the purpose of the planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation and equipment of State and community-based human services facilities and State correctional facilities; authorizing the issuance of refunding bonds; providing the ways and means to pay and discharge the principal of and interest on the bonds and refunding bonds; providing for the submission of this act to the people at a general election; and making an appropriation therefor.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. This act shall be known and may be cited as the "Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989."

2. The Legislature finds and declares that:

a. The State of New Jersey requires an immediate program to support community grants for the development of such facilities as

group homes and other community-based facilities for the mentally ill and developmentally disabled.

b. Increased community efforts are necessary to provide the proper level of services in local areas, and thereby decrease the client population served by institutional care at State human services facilities.

c. The State of New Jersey requires an immediate program for capital improvements at human services facilities, in the areas of life safety, accreditation, physical plant and program improvement projects.

d. The State of New Jersey requires an immediate program for the construction of additional State facilities for the incarcerated.

e. Implementation of these programs will be a substantial step toward meeting the immediate and critical need of the people of New Jersey, will substantially further the public interest, and can be most economically financed through a bond issue.

3. As used in this act, unless the context indicates a different meaning or intent:

“Bonds” means the bonds authorized to be issued, or issued, under this act.

“Construct” and “construction” means, in addition to the usual meaning thereof, the planning, erecting, purchasing, improving, developing, constructing, reconstructing, extending, rehabilitating, renovating, upgrading, demolishing and equipping of public purpose buildings.

“Correctional facilities” means structures, institutions and facilities under the supervision and control of the Department of Corrections.

“Cost” means the expenses incurred in connection with: the acquisition by purchase, lease, or otherwise, the development, and the construction of any project authorized by this act; the acquisition by purchase, lease, or otherwise, and the development of any real or personal property for use in connection with a project authorized by this act, including any rights or interests therein, the execution of any agreements and franchises deemed by the Department of Human Services or the Department of Corrections, as the case may be, to be necessary or useful and convenient in connection with any project authorized by this act; the procurement of engineering, in-

spection, planning, legal, financial, or other professional services, including the services of a bond registrar or an authenticating agent; the issuance of bonds, or any interest or discount thereon; the administrative, organizational, operating or other expenses incident to the financing, completing, and placing into service of any project authorized by this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any fund created by this act, or of any moneys which may have been expended therefrom for, or in connection with, any project authorized by this act.

“Government securities” means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent those obligations are unconditionally guaranteed by the United States of America, and any certificates or any other evidences of an ownership interest in those obligations of, or unconditionally guaranteed by, the United States of America or in specified portions which may consist of the principal of, or the interest on, those obligations.

“Human services facilities” means structures, institutions and facilities under the supervision of the Department of Human Services; and structures, institutions and facilities necessary for the operation of State, county, municipal or private programs for the mentally ill and the developmentally disabled.

“New Jersey Commission on Capital Budgeting and Planning” means the commission established by section 2 of P.L.1975, c.208 (C.52:9S-2).

“Project” means any work relating to public purpose buildings.

“Public purpose buildings” means correctional facilities and human services facilities.

4. a. The Commissioner of Human Services and the Commissioner of Corrections shall each adopt, as appropriate, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act. Each commissioner shall review and consider the findings

and recommendations of the New Jersey Commission on Capital Budgeting and Planning in the administration of the provisions of this act.

b. Of the amount allocated to the Department of Human Services for State institutions for the mentally ill and developmentally disabled, funds shall be appropriated by the Legislature only in accordance with a human services master plan which includes a needs assessment of the capital facilities required for the provision of an adequate level of care for the mentally ill and developmentally disabled populations and an integrated plan for the use and rehabilitation of current facilities with new capital facilities. The plan shall be developed in consultation with appropriate community mental health and developmental disabilities services providers and shall be submitted by the Commissioner of Human Services to the Commission on Capital Budgeting and Planning for review and approval.

5. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of \$125,000,000 for the purpose of capital expenditure for the cost of construction of public purpose buildings.

a. Of this total, \$90,000,000 shall be allocated to the Department of Human Services; \$30,000,000 of which shall be for State institutions for the mentally ill and developmentally disabled and \$60,000,000 of which shall be for community-based facilities for the mentally ill and developmentally disabled. The proceeds from the sale of bonds shall be utilized for the following purposes:

(1) Life safety projects to abate hazards to clients and employees at human services facilities.

(2) Accreditation projects to provide improved living conditions for clients, in accordance with requirements contained in accreditation and certification surveys.

(3) Community grant projects to develop residential and service facilities in the community.

(4) Physical plant projects to maintain the operational integrity of human services facilities.

(5) Program improvement projects to materially add to or upgrade human services facilities.

b. Of this total, \$35,000,000 shall be allocated to the Department of Corrections for construction of State correctional facilities.

6. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "Public Purpose Buildings and Community-Based Facilities Construction Bonds." They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The bonds may be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the respective dates of their issuance.

7. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

8. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest and redemption premium thereon, if any, when due, and for the payment of the principal thereof at maturity or earlier redemption date. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

9. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury and may be manually authenticated by an authenticating agent or bond registrar, as the issuing officials shall determine. Interest coupons, if any, attached to the bonds shall be signed by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury. The bonds may be issued notwithstanding that an official signing them or whose manual or facsimile signature appears on the bonds or coupons has ceased to hold office at the time of issuance, or at the time of the delivery of the bonds to the purchaser thereof.

10. a. The bonds shall recite that they are issued for the purposes set forth in section 5 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election held in the month of November, 1989, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

b. The bonds shall be issued in those denominations and in the form or forms, whether coupon, fully-registered or book entry, and with or without provisions for interchangeability thereof, as may be determined by the issuing officials.

11. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials, which interest shall be payable semiannually; except that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

12. The bonds shall be issued and sold at the price or prices and under terms, conditions and regulations as the issuing officials may prescribe, after notice of the sale, published at least once in at least three newspapers published in this State, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in this State or in the city of New York, the first notice to appear at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any bid in pursuance thereof may be rejected. In the event of rejection or failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of the advertised sale, may sell the bonds at a private sale at such price or prices and under the terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at a private sale, without advertisement.

13. Until permanent bonds are prepared, the issuing officials may issue temporary bonds in the form and with those privileges as to their registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of the bonds shall be paid to the State Treasurer to be held by the State Treasurer in a separate fund, which shall be known as the "Public Purpose Buildings and Community-Based Facilities Construction Fund." The proceeds of this fund shall be deposited in those depositories as may be selected by the State Treasurer to the credit of the fund.

15. a. The moneys in the "Public Purpose Buildings and Community-Based Facilities Construction Fund" are specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act. However, no moneys in the fund shall be expended for those purposes, except as otherwise authorized by this act, without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "Public Purpose Buildings and Community-Based Facilities Construction Fund" shall identify the project to be funded by the moneys.

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from any available moneys in any fund of the treasury of the State to the credit of the "Public Purpose Buildings and Community-Based Facilities Construction Fund" those sums as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of bonds.

c. Pending their application to the purposes provided in this act, the moneys in the "Public Purpose Buildings and Community-Based Facilities Construction Fund" may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of moneys in the "Public Purpose Buildings and Community-Based Facilities Construction Fund" shall be paid into the General Fund.

16. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and

delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon, the ownership thereof, and security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

17. The accrued interest, if any, received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

19. The issuing officials may issue refunding bonds in an amount not to exceed the amount necessary to effectuate the refinancing of any bonds issued pursuant to this act, at any time and from time to time, for the purpose of refinancing any bond or bonds issued pursuant to this act, subject to the following provisions:

a. Refunding bonds may be issued at any time prior to the maturity or redemption of the bonds to be refinanced thereby as the issuing officials shall determine.

b. Each series of refunding bonds may be issued in a sufficient amount to pay or to provide for the payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on the bonds to be refinanced to the date of payment of the outstanding bonds, the expense of issuing the refunding bonds and the expenses, if any, of paying the bonds to be refinanced.

c. No refunding bonds shall be issued unless the issuing officials shall first determine that the present value of the aggregate principal

amount of and interest on the refunding bonds is less than the present value of the aggregate principal amount of and interest on the bonds to be refinanced thereby; provided, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of those refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semiannual compounding and upon the price or prices paid to the State by the initial purchasers of those refunding bonds.

d. Any refinancing authorized hereunder may be effected by the sale of the refunding bonds and the application of the proceeds thereof to the immediate payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on those bonds to be refinanced to the date of payment of those bonds, the expenses of issuing the refunding bonds and the expenses, if any, of paying those bonds to be refinanced, or, to the extent not required for that immediate payment, shall be deposited, together with any other moneys legally available therefor, in trust with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, to be applied solely to the payment when due of the principal of, redemption premium, if any, and interest due and to become due on the bonds to be refinanced on or prior to the redemption date or maturity date thereof, as the case may be. The proceeds or moneys so held by the trustees or escrow agents may be invested in government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States; provided those government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as otherwise provided in this subsection, neither government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest on the bonds to be refinanced thereby; provided that any cash received from the principal or interest payments on those government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the trustees or escrow agents, and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due

the principal of, redemption premium, if any, and interest to become due on the bonds to be refinanced, on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from those reinvestments, to the extent not required for the payment of bonds, shall be paid over to the State, as received by the trustees or escrow agents. Notwithstanding anything to the contrary contained herein:

(1) The trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (a) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all outstanding bonds so purchased or (b) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the outstanding bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and

(2) In the event that on any date, as a result of any purchases and cancellations of the outstanding bonds or any purchases of different government securities as provided in this subsection, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which such deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on those remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of that excess to the State. Any amounts held by the State Treasurer in a separate fund or funds for the payment of the principal of, redemption premium, if any, and interest on bonds to be refinanced, as provided herein, shall, if so directed by the issuing officials, be transferred by the State Treasurer for deposit with one or more trustees or escrow agents, as provided herein, to be applied to the payment when due of the principal of, redemption premium, if any, and interest to become due on those

bonds to be refinanced, as provided in this section, or be applied by the State Treasurer to the payment when due of the principal of, redemption premium, if any, and interest on refunding bonds issued hereunder to refinance those bonds. The State Treasurer is authorized to enter into contracts with one or more trust companies or national or state banks, as provided herein, to act as trustees or escrow agents as provided herein, subject to the approval of the issuing officials.

e. Notwithstanding the provisions of section 12 of this act, any series of refunding bonds issued pursuant to this section shall mature at any time or times not later than five years following the latest scheduled final maturity date, determined without regard to any redemptions prior thereto, of any of the bonds to be refunded thereby, and in no event later than 35 years following the date of issuance of that series of refunding bonds, and those refunding bonds may be sold at public or private sale at prices and under terms, conditions and regulations as the issuing officials may prescribe. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations, except as to sale provisions and to the extent therein otherwise expressly provided.

f. Upon the decision by the issuing officials to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the issuing officials shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the issuing officials relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the issuing officials to issue and sell the refunding bonds at public or private sale and the reasons therefor.

g. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection f. of this section. The committee shall notify the issuing officials in writing of the approval or disapproval as expeditiously as possible.

h. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection g. of this section.

i. Within 30 days after the sale of the refunding bonds, the issuing officials shall notify the Joint Budget Oversight Committee, or its

successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

j. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the issuing officials, or to the Legislature, or both, as it deems appropriate.

20. Any bond or bonds issued hereunder shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds; provided that any cash received from the principal or interest

payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien, pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from the reinvestments shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien or pledge securing the bonds. Notwithstanding anything to the contrary contained herein:

a. The trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and

b. In the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities, as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which the deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on the remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the

amount of the excess to the State, free and clear of any trust, lien, pledge or assignment securing the refunding bonds.

21. Refunding bonds issued pursuant to section 19 of this act may be consolidated with bonds issued pursuant to section 6 of this act or with bonds issued pursuant to any other act for purposes of sale.

22. To provide funds to meet the interest and principal payment requirements for the bonds and refunding bonds issued under this act and outstanding, there is appropriated in the order following:

a. Revenue derived from the collection of taxes under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or so much thereof as may be required; and

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act are insufficient or not available, there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as are other taxes upon real and personal property. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year, the issuing officials, by resolution, determine that there are moneys in the General Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest and redemption premium, if any, payable in the ensuing calendar year, the issuing officials shall file the resolution in the office of the State Treasurer, whereupon the State Treasurer shall transfer the moneys to a separate fund to be designated by the State Treasurer, and shall pay the principal, redemption premium, if any, and interest out of that fund as the same shall become due and payable, and the other sources of payment of the principal, redemption premium, if any, and interest provided for

in this section shall not then be available, and the receipts for the year from the tax specified in subsection a. of this section shall be considered and treated as part of the General Fund, available for general purposes.

23. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

24. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1989. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers be published therein and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

If you approve of the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "Yes."

If you disapprove of the act entitled below, make a cross (X), plus (+), or check (✓) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to these markings respectively.

	Yes.	PUBLIC PURPOSE BUILDINGS AND COMMUNITY-BASED FACILITIES CONSTRUCTION BOND ISSUE Shall the "Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989," which authorizes the State to issue bonds in the amount of \$125,000,000 for the purpose of the planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation and equipment of State and community-based human services facilities and State correctional facilities; and in a principal amount sufficient to refinance any of the bonds if the same will result in a present value savings; and providing the ways and means to pay the interest on the debt and also to pay and discharge the principal thereof, be approved? INTERPRETIVE STATEMENT
	No.	Approval of this act would authorize the sale of \$125,000,000 in State general obligation bonds. Of the total, \$90,000,000 will be used for State and community-based human services facilities for the developmentally disabled and the mentally ill for: life safety projects to abate hazards to clients and employees at these human services facilities; accreditation projects to provide improved living conditions for clients, in accordance with requirements contained in accreditation and certification surveys; community grant projects to develop residential and service facilities in the community; physical plant projects to maintain the operational integrity of these human services facilities; and program improvement projects to materially add to or upgrade these human services facilities. Of

		the total, \$35,000,000 will be used for construction of additional State correctional facilities. The act also authorizes the issuance of bonds in a sufficient amount to refinance any of these bonds if the same will result in a present value savings.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law of any kind or character as to notice or procedure, except as herein provided, need be adhered to.

The votes cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of the election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there is a majority of all votes cast for and against it at the election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

25. There is appropriated the sum of \$5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 24 of this act.

26. The Commissioner of Human Services and the Commissioner of Corrections shall each submit to the State Treasurer and the New Jersey Commission on Capital Budgeting and Planning with their respective department's annual budget request a plan for the expenditure of funds from the "Public Purpose Buildings and Community-Based Facilities Construction Fund" for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by funds from the "Public Purpose Buildings and Community-Based Facilities Construction Fund"; and an estimate of expenditures for the upcoming fiscal year.

27. Immediately following the submission to the Legislature of the Governor's annual budget message, the Commissioner of Human

Services and the Commissioner of Corrections shall each submit to the relevant standing committees of the Legislature, as designated by the President of the Senate and the Speaker of the General Assembly, and to the Joint Budget Oversight Committee, or its successor, a copy of the plan called for under section 26 of this act, together with such changes therein as may have been required by the Governor's budget message.

28. Not less than 30 days prior to entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the Commissioner of Human Services or the Commissioner of Corrections, as the case may be, shall report to and consult with the Joint Budget Oversight Committee, or its successor.

29. All appropriations from the "Public Purpose Buildings and Community-Based Facilities Construction Fund" shall be by specific allocation for each project, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee, or its successor.

30. This section and sections 24 and 25 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 24.

Approved August 17, 1989.

CHAPTER 185

AN ACT concerning judges of the Superior Court in certain counties and amending N.J.S.2A:2-1.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.2A:2-1 is amended to read as follows:

Superior Court judges.

2A:2-1. a. The Superior Court shall consist of not less than 362 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	10
Bergen	24
Burlington	7
Camden	14
Cape May	4
Cumberland	6
Essex	28
Gloucester	8
Hudson	22
Hunterdon	3
Mercer	8
Middlesex	20
Monmouth	16
Morris	14
Ocean	14
Passaic	14
Salem	2
Somerset	6
Sussex	3
Union	16
Warren	3

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the number of judges of the county court authorized in each of the counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. This act shall take effect immediately.

Approved September 26, 1989.

CHAPTER 186

AN ACT concerning radon contamination mitigation construction standards, and supplementing P.L.1975, c.217 (C.52:27D-119 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.52:27D-123a Adoption of radon hazard code.

1. The Commissioner of Community Affairs shall adopt, pursuant

to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a radon hazard code, or may propose amendments to revise the appropriate model code adopted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), for the purpose of establishing adequate and appropriate standards to ensure that schools and residential buildings within tier one areas, as defined by the Department of Environmental Protection pursuant to P.L.1985, c.408 (C.26:2D-59 et seq.), are constructed in a manner that minimizes radon gas and radon progeny entry and facilitates any subsequent remediation that might prove necessary. In preparing the radon hazard code standards, the commissioner shall employ a guideline of four picocuries per liter or such other action level standard as the Department of Environmental Protection may establish subsequent to the effective date of this act.

The department shall include in the radon hazard code standards such testing requirements as may prove reliable, practical and economical to identify sites where a proposed school or residential building will require construction in a manner that minimizes radon gas and radon progeny entry and facilitates any subsequent remediation. If a feasible predictive test method is developed, then the standards adopted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), shall be revised to include such further changes in construction standards as may be necessary to prevent the entry of radon gas and radon progeny into new schools or residential buildings.

No person who constructs a school or residential building in compliance with these standards anywhere within the State shall thereafter be held liable for the presence of radon gas or radon progeny in the school or residential building, or for any losses or damage to persons or property resulting therefrom.

C.52:27D-123b Construction to be in accordance with radon hazard code standards.

2. No construction permit shall be issued for the construction of any new school or residential building in a tier one area, except after submission to the construction official of documentation sufficient to establish that the construction will be in accordance with the radon hazard code standards adopted pursuant to section 1 of this act.

C.52:27D-123c Certificate of occupancy contingent on conformity with radon hazard code standards.

3. No certificate of occupancy shall be issued for any newly constructed school or residential building required to be constructed in accordance with radon hazard code standards as provided in section

2 of this act, except upon verification by the construction official that the school or residential building conforms to the radon hazard code standards.

C.52:27D-123d Testing of building sites for presence of radon hazards.

4. The Department of Community Affairs, in consultation with the Department of Environmental Protection, the National Institute of Standards and Technology, the National Association of Homebuilders Research Center and the United States Environmental Protection Agency, shall investigate methods of testing building sites for the purpose of predicting the presence of radon hazards in buildings to be constructed thereon.

C.52:27D-123e Training of construction officials.

5. The Department of Community Affairs shall take such actions as are necessary to train construction officials in the implementation of this act.

6. This act shall take effect immediately.

Approved September 26, 1989.

CHAPTER 187

AN ACT concerning the enucleation of eyes and amending P.L.1969, c.161.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 4 of P.L.1969, c.161 (C.26:6-60) is amended to read as follows:

C.26:6-60 Gift by will or other document.

4. (a) A gift of all or part of the body under section 2(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under section 2(a) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card

designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding section 7(b), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose or, in the case of a gift of eyes, he may employ or authorize a practitioner of mortuary science licensed by the State Board of Mortuary Science of New Jersey, an eye bank technician or a medical student who has successfully completed a course in eye enucleation approved by the State Board of Medical Examiners to enucleate eyes for the gift after certification of death by a physician. A practitioner of mortuary science, an eye bank technician or a medical student acting in accordance with the provisions of this subsection shall not have any liability, civil or criminal, for the eye enucleation.

(e) Any gift by a person designated in section 2(b) shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

2. This act shall take effect immediately.

Approved September 26, 1989.

CHAPTER 188

AN ACT establishing the Martin Luther King, Jr. Commission and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:9Z-1 Martin Luther King, Jr. Commission established.

1. There is established in the Department of State the Martin Luther King, Jr. Commission. The commission shall consist of 45 members:

a. a representative of the Martin Luther King, Jr. Center for Nonviolent Social Change to be appointed by the Governor and to serve at the pleasure of the Governor;

b. a representative of the Governor's office to be appointed by the Governor and to serve at the pleasure of the Governor;

c. four members of the Senate to be appointed by the President thereof, no more than two of whom shall be from the same political party;

d. four members of the General Assembly to be appointed by the Speaker thereof, no more than two of whom shall be from the same political party; and

e. 35 public members to be appointed by the Governor. The public members shall be residents of the State and shall represent the various geographical areas of the State; shall represent various civic, social, religious, educational, business and artistic organizations; and shall be committed to resolving conflict and to upholding the humanitarian philosophy of Dr. King.

C.52:9Z-2 Appointment of co-chairpersons.

2. The Governor shall select two public members to serve as co-chairpersons.

C.52:9Z-3 Members; terms, filling of vacancies, reimbursement.

3. Legislative members shall serve during the two-year legislative term in which the appointment is made. Public members shall serve for a term of two years and until their respective successors are appointed and qualified. Vacancies in the membership shall be filled for the balance of the unexpired terms in the same manner as the original appointments were made. Members of the commission shall serve without compensation but shall be reimbursed for expenses actually incurred in the performance of their duties.

C.52:9Z-4 Duties of the commission.

4. The commission shall:

- a. develop, coordinate, and advise the Governor and Legislature of Statewide activities in honor of Martin Luther King, Jr.'s birthday;
- b. establish programs designed to educate the citizens of New Jersey about Martin Luther King, Jr. and the civil rights movement;
- c. meet with other groups and organizations in order to coordinate events and seek volunteers who are willing to donate their talents; and
- d. receive donations, through fund-raising activities and contributions, from individuals and public and private organizations in order to carry out its responsibilities and to address the needs of Dr. King's living memorial, the Martin Luther King, Jr. Center for Non-violent Social Change.

C.52:9Z-5 Rights of the commission.

5. The commission is entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency which it may require and which may be available to it for these purposes and to employ stenographic and clerical assistants and incur traveling and other miscellaneous expenses necessary to perform its duties, within the limits of funds appropriated or otherwise made available to it for these purposes.

6. This act shall take effect immediately.

Approved September 26, 1989.

CHAPTER 189

AN ACT appropriating moneys from the Wastewater Treatment Fund for the purpose of making zero interest loans to local government units to finance a portion of the costs of construction of wastewater treatment system projects.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. There is appropriated to the Department of Environmental Protection from the "Wastewater Treatment Fund—State Revolving Fund Accounts" (hereinafter referred to as the "State Revolving Fund Accounts") contained within the "Wastewater Treatment Fund" and established pursuant to section 1 of P.L.1988, c.133 an amount not exceeding \$77,000,000 in federal funds as may be deposited in the State Revolving Fund Accounts. Any such amount shall be for the purpose of making zero interest loans, to the extent sufficient funds are available, to local government units to finance a portion of the costs of construction of wastewater treatment system projects listed in section 2 of this act, and for the purpose of implementing and administering the provisions of this act, to the extent permitted by the "Water Quality Act of 1987" (33 U.S.C. § 1251 et seq.), and any amendatory and supplementary acts thereto, and State law.

b. The Department of Environmental Protection is authorized to make zero interest loans to the local government units and for the wastewater treatment system projects listed in section 2 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the Commissioner of Environmental Protection pursuant to section 6 of this act, or if a project fails to meet the requirements of section 4 of this act.

c. The department is also authorized to make zero interest loans to the local government units and for the wastewater treatment system projects listed in section 2 of this act under the same terms, conditions and requirements as set forth in this section from any unexpended balances of the amounts appropriated pursuant to section 1 of P.L.1987, c.200 or section 2 of P.L.1988, c.133, including amounts resulting from the low bid building cost reductions authorized pursuant to section 6 of P.L.1987, c.200 and section 7 of P.L.1988, c.133, and from any repayments of loans deposited in the "Wastewater Treatment Fund" pursuant to the provisions of section

16 of P.L.1985, c.329, including any State Revolving Fund Accounts contained within the "Wastewater Treatment Fund."

2. The following wastewater treatment system projects shall be known and may be cited as the "State Fiscal Year 1990 Project Priority List":

<u>Project No.</u>	<u>Local Government Unit</u>	<u>Estimated Allowable Project Cost</u>
S340578-05	Manville Borough	\$1,049,496
S340404-02	Passaic Township	2,758,430
S340548-03	Roxbury Township	5,400,000
S340810-02	Lower Township MUA	3,242,611
S340701-04	West Milford Township MUA (Crescent Park)	227,500
S340701-05	West Milford Township MUA (Awosting)	260,000
S340913-01	Warren Township SA	3,500,968
S340701-07	West Milford Township MUA (Highview)	162,500
S340388-03	Hanover SA	10,353,557
S340701-08	West Milford Township MUA (Birch Hill)	32,500
S340710-02	Maple Shade Township	6,161,625
S340723-02	Morris Township—Butterworth	10,629,830
S340636-03	Pompton Lakes MUA	4,750,000
S340816-01	Bernardsville Borough	2,469,368
S340701-06	West Milford Township MUA (Olde Milford)	162,500
S340692-03	Wood-Ridge Borough	2,458,395
S340885-01	Hopewell Township MUA	542,500
S340708-05	Camden County MUA	31,356,500
S340467-04	Montville Township MUA	1,012,200
S340393-06	Wayne Township	612,807
S340778-02	West Paterson Borough	1,085,500
		<u>\$88,228,787</u>

The provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary notwithstanding, no wastewater treatment system project authorized in this section shall be deemed ineligible for receipt of a zero interest loan, up to the individual amount indicated and in the priority stated, on the basis of a de-

termination by the department that the loan application for that project was incomplete as of March 1, 1989.

3. a. In addition to the loans authorized in sections 1 and 2 of this act, the department is authorized to expend funds for the purpose of making zero interest loans, to the extent sufficient funds are available, to the local government units listed below for the following wastewater treatment system projects:

<u>Project No.</u>	<u>Local Government Unit</u>	<u>Estimated Allowable Project Cost</u>
S340447-04-1	Elizabeth City	\$1,440,430
S340825-01-1	Berkeley Heights Township	594,450
S340485-03-1	Raritan Township MUA	1,467,899
S340449-03-1	Newton Town	2,361,250
S340523-03-1	Caldwell Borough Township	2,663,271
S340785-03-1	Livingston Township	1,439,306
S340533-03-1	Verona Borough Township	1,714,749
S340715-02-A1	Madison Borough	1,530,254
S340715-02-B1	Chatham Borough	897,786
S340376-03-1	Morristown Town	14,497,196
		<u>\$28,606,591</u>

b. The loans authorized in this section shall be made for the difference between the loan amounts certified by the commissioner in State fiscal years 1988 and 1989 and the allowable loan amounts required by these projects based upon low bid building costs pursuant to section 6 of this act. The loans authorized in this section shall be made to the local government units listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as any such project fails to meet the requirements of section 4 of this act.

c. The zero interest loans for projects authorized in this section shall have priority over projects listed in section 2 of this act. No loans authorized in this section for Project No. S340447-04-1 (Elizabeth City: \$1,440,430) or Project No. S340825-01-1 (Berkeley Heights Township: \$594,450) shall be made with funds deposited in the State Revolving Fund Accounts.

4. Any loan made by the Department of Environmental Protection pursuant to this act shall be subject to the following requirements:

a. The commissioner has certified that the project is in compliance with the provisions of P.L.1985, c.329 and any rules and regulations adopted pursuant thereto;

b. The loan amount shall not exceed 50% of the allowable project cost of a wastewater treatment system;

c. The loan shall be repaid within a period not to exceed 23 years of the making of the loan;

d. The loan shall be conditioned upon approval of a loan from the New Jersey Wastewater Treatment Trust pursuant to P.L.1989, c.190;

e. The loan shall be subject to any other terms and conditions as may be established by the commissioner and approved by the State Treasurer, which may include subordination of a loan authorized in this act to loans made by the trust pursuant to P.L.1989, c.190 or to administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

5. The priority list and loans authorized pursuant to sections 2 and 3 of this act shall expire on July 1, 1990, and any local government unit which has not executed and delivered a loan agreement with the department for a loan authorized in this act shall no longer be entitled to that loan.

6. The Commissioner of Environmental Protection is authorized to reduce the individual amount of loan funds made available to local government units pursuant to sections 1 and 2 of this act based upon low bid building costs defined in and determined in accordance with rules and regulations adopted by the commissioner pursuant to section 4 of P.L.1985, c.329.

7. The expenditure of the funds appropriated by this act is subject to the provisions and conditions of P.L.1985, c.329 and any rules and regulations adopted by the commissioner pursuant thereto.

8. The Department of Environmental Protection shall provide general technical assistance to any local government unit requesting assistance regarding wastewater treatment system project development or applications for funds for a project.

9. Prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, repayments of loans made pursuant to this act may be utilized by the New Jersey Wastewater Treatment Trust established pursuant to

P.L.1985, c.334 (C.58:11B-1 et seq.) under terms and conditions established by the commissioner and trust, and approved by the State Treasurer, and consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and federal tax law, to the extent necessary to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1989, c.190, and to secure the administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the local government units receiving trust loans. To the extent that any loan repayment sums are used to secure trust bond repayments or administrative fee payments, the trust shall repay such sums to the department for deposit into the "Wastewater Treatment Fund."

10. The Commissioner of Environmental Protection is authorized to enter into a capitalization grant agreement as may be required pursuant to the "Water Quality Act of 1987" (33 U.S.C. § 1251 et seq.).

11. a. The Director of the Division of Budget and Accounting in the Department of the Treasury is directed to transfer to the "Wastewater Treatment Fund" the entire sum of money appropriated to the Department of Environmental Protection for "Public Wastewater Facilities" in the "State Aid" section of P.L.1989, c.122. The sum transferred to the "Wastewater Treatment Fund" pursuant to this section is appropriated to the New Jersey Wastewater Treatment Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.). The trust shall deposit all or a portion of this sum as it may deem necessary and appropriate into one or more reserve funds established pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11). These reserve funds shall include reserve funds constituted collectively as a water pollution control revolving fund for the purposes of the federal "Water Quality Act of 1987" and shall be known as the Trust Reserve Fund—State Revolving Fund Accounts; except that the trust shall not establish the Trust Reserve Fund—State Revolving Fund Accounts prior to the execution of a capitalization grant agreement entered into by the Commissioner of Environmental Protection pursuant to section 10 of this act.

b. Any portion of the sum appropriated to the trust pursuant to subsection a. of this section, plus any net earnings received from the investment or deposit of such moneys by the trust not required by the trust to establish reserve funds as provided in this section, shall be returned to the "Wastewater Treatment Fund" and placed in any account therein as determined by the commissioner to be used by

the department for making zero interest loans to local government units to finance a portion of the cost of the wastewater treatment system projects listed in sections 2 and 3 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the commissioner pursuant to section 6 of this act or if a project fails to meet the requirements of section 4 of this act; and except that the commissioner shall certify to the chairman of the trust that such funds are needed for zero interest loans before any transfer is made. In the event that the commissioner fails to make this certification, the unexpended balance not devoted to establishing reserve funds shall remain with the trust but shall not be expended by the trust until such expenditure is authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.).

12. This act shall take effect immediately, but shall remain inoperative until the enactment of P.L.1989, c.190.

Approved October 2, 1989.

CHAPTER 190

AN ACT authorizing the expenditure of funds by the New Jersey Wastewater Treatment Trust for the purpose of making loans to local government units to finance a portion of the costs of construction of wastewater treatment system projects, and supplementing P.L.1985, c.334 (C.58:11B-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The New Jersey Wastewater Treatment Trust, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), is authorized to expend the aggregate sum of up to \$85,000,000.00, and any unexpended balance of the aggregate expenditures authorized pursuant to section 1 of P.L.1987, c.199 and section 1 of P.L.1988, c.132, for the purpose of making loans, to the extent sufficient funds are available, to local government units to finance a portion of the costs of construction of wastewater treatment system projects listed in section 3 of this act. The trust is also authorized to increase the aggregate sums by the amounts of capitalized interest and the bond issuance expenses as provided in subsection b. of section 7 of this act. For the purposes of this act, "capitalized interest" means the amount

equal to interest paid on trust bonds which is funded with trust bond proceeds; and "issuance expenses" means and includes, but need not be limited to, the costs of financial document printing, municipal bond insurance premiums, underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents and any other costs related to the issuance of trust bonds.

2. The New Jersey Wastewater Treatment Trust is authorized to make loans to the local government units and for the wastewater treatment system projects listed in section 3 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act.

3. The following wastewater treatment system projects shall be known and may be cited as the "State Fiscal Year 1990 Project Priority List":

<u>Project No.</u>	<u>Local Government Unit</u>	<u>Estimated Allowable Project Cost</u>
S340578-05	Manville Borough	\$1,049,496
S340404-02	Passaic Township	2,758,430
S340548-03	Roxbury Township	5,400,000
S340810-02	Lower Township MUA	3,242,611
S340701-04	West Milford Township MUA (Crescent Park)	227,500
S340701-05	West Milford Township MUA (Awosting)	260,000
S340913-01	Warren Township SA	3,500,968
S340701-07	West Milford Township MUA (Highview)	162,500
S340388-03	Hanover SA	10,353,557
S340701-08	West Milford Township MUA (Birch Hill)	32,500
S340710-02	Maple Shade Township	6,161,625
S340723-02	Morris Township—Butterworth	10,629,830
S340636-03	Pompton Lakes MUA	4,750,000
S340816-01	Bernardsville Borough	2,469,368
S340701-06	West Milford Township MUA (Olde Milford)	162,500

S340692-03	Wood-Ridge Borough	2,458,395
S340885-01	Hopewell Township MUA	542,500
S340708-05	Camden County MUA	31,356,500
S340467-04	Montville Township MUA	1,012,200
S340393-06	Wayne Township	612,807
S340778-02	West Paterson Borough	1,085,500
		<u>\$88,228,787</u>

The provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary notwithstanding, no wastewater treatment system project authorized in this section shall be deemed ineligible for receipt of a trust loan, up to the individual amount indicated and in the priority stated, on the basis of a determination by the trust or the Department of Environmental Protection, as the case may be, that the loan application for that project was incomplete as of March 1, 1989.

4. a. In addition to the loans authorized in sections 2 and 3 of this act, the trust is authorized to expend funds for the purpose of making loans to the local government units listed below for the following wastewater treatment system projects:

<u>Project No.</u>	<u>Local Government Unit</u>	<u>Estimated Allowable Project Cost</u>
S340447-04-1	Elizabeth City	\$1,440,430
S340825-01-1	Berkeley Heights Township	594,450
S340485-03-1	Raritan Township MUA	1,467,899
S340449-03-1	Newton Town	2,361,250
S340523-03-1	Caldwell Borough Township	2,663,271
S340785-03-1	Livingston Township	1,439,306
S340533-03-1	Verona Borough Township	1,714,749
S340715-02-A1	Madison Borough	1,530,254
S340715-02-B1	Chatham Borough	897,786
S340376-03-1	Morristown Town	14,497,196
		<u>\$28,606,591</u>

b. The loans authorized in this section shall be made for the difference between the loan amounts certified by the chairman of the trust in State fiscal years 1988 and 1989 and the allowable loan amounts required by these projects based upon low bid building costs pursuant to subsection a. of section 7 of this act. The trust is authorized to increase that aggregate sum by the amounts of capi-

talized interest and the bond issuance expenses as provided in subsection b. of section 7 of this act. The loans authorized in this section shall be made to the local government units listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as any such project fails to meet the requirements of section 6 of this act.

c. The loans authorized in this section shall have priority over the wastewater treatment system projects listed in section 3 of this act.

5. In accordance with and subject to the provisions of sections 5, 6 and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6 and 58:11B-23) and as set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21), any proceeds from bonds issued by the trust to make loans for priority wastewater treatment system projects listed in sections 3 and 4 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of and interest and premium on the trust bonds whether due at stated maturity or earlier upon redemption. A portion of the proceeds from bonds issued by the trust to make loans for priority wastewater treatment system projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses.

6. Any loan made by the New Jersey Wastewater Treatment Trust pursuant to this act shall be subject to the following requirements:

a. The chairman of the trust has certified that the project is in compliance with the provisions of P.L.1985, c.334 and any rules and regulations adopted pursuant thereto;

b. The loan shall be conditioned upon approval of a zero interest loan from the Department of Environmental Protection from the "Wastewater Treatment Fund" established pursuant to the "Wastewater Treatment Bond Act of 1985," P.L.1985, c.329;

c. The loan shall be repaid within a period not to exceed 20 years of the making of the loan;

d. The loan shall not exceed 50% of the allowable project cost of a wastewater treatment system, exclusive of capitalized interest and issuance expenses as provided in subsection b. of section 7 of this act;

e. The loan shall bear interest at or below the interest rate paid by the trust on the bonds issued to make the loans authorized by this act, adjusted for underwriting discount, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21); and

f. The loan shall be subject to all other terms and conditions as the trust shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, and with the financial plan required by section 21 of P.L.1985, c.334 (C.58:11B-21).

The priority list and loans authorized pursuant to sections 2, 3 and 4 of this act shall expire on July 1, 1990, and any local government unit which has not executed and delivered a loan agreement with the trust for a loan authorized in this act shall no longer be entitled to that loan.

7. a. The New Jersey Wastewater Treatment Trust is authorized to reduce the individual amount of loan funds made available to local government units pursuant to sections 2 and 3 of this act based upon low bid building costs defined in and determined in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

b. The trust is authorized to increase each loan amount authorized in sections 2, 3 and 4 of this act by the amount of capitalized interest and issuance expenses allocable to each loan made by the trust pursuant to this act; provided that the increase for issuance expenses, excluding underwriters' discount and municipal bond insurance premiums, shall not exceed .15% of the principal amount of trust bonds issued to make loans authorized by this act.

8. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1985, c.329 and P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto.

9. This act shall take effect immediately, but shall remain inoperative until the enactment of P.L.1989, c.189.

Approved October 2, 1989.

CHAPTER 191

AN ACT concerning the Delaware River and Bay Authority, supplementing P.L.1961, c.66 (C.32:11E-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.32:11E-1.1 Public hearing required for Delaware River and Bay Authority project approval.

1. The Delaware River and Bay Authority shall not approve any project, other than a crossing, or part thereof without first holding a public hearing on the proposed project. The authority shall cause to be published notice of the public hearing at least 10 days prior to the hearing in at least three newspapers with a daily circulation in Cape May, Cumberland, Gloucester and Salem counties. The Delaware River and Bay Authority shall not undertake any project, other than a crossing, to be located in the State of New Jersey or in the Delaware River or Bay, without having first secured legislative authorization and approval of each specific project or part thereof pursuant to New Jersey law.

C.32:11E-1.2 Delaware Memorial Bridge toll increases regulated.

2. The authority shall not increase any rate of Delaware Memorial Bridge toll charged as a volume discount rate from the rate in effect on the earlier of the effective date of (i) ____ Del. Laws, C.____, §____ (now pending before the Delaware General Assembly as House Bill No. ____) or (ii) New Jersey P.L.1989, c.192, for a period of 10 years following that date, if the increase would cause the volume discount rate to exceed 25% of the basic toll rate charged by the authority for individual crossings of the bridge by passenger automobiles, provided that the authority may raise the volume discount rate in excess of this 25% limitation to the extent that the increase is determined by the authority to be reasonably necessary for the protection of the authority's bondholders in accordance with Article XI of the "Delaware-New Jersey Compact," P.L.1961, c.66 (C.32:11E-1).

C.32:11E-1.3 Modifications of Delaware-New Jersey Compact; consent, approval.

3. The Governor is hereby authorized to apply on behalf of the State of New Jersey to the Congress of the United States for its consent and approval to any modifications to the compact and to the use of tolls collected on any crossing for the financing of any transportation or terminal facility or commerce facility or development constructed or operated by the authority, but in the absence of such consent and approval, the Delaware River and Bay Authority

shall have all the powers the State of Delaware and the State of New Jersey may confer upon it without the consent and approval of Congress.

4. This act shall take effect upon the effective date of P.L.1989, c.192.

Approved October 18, 1989.

CHAPTER 192

AN ACT concerning the Delaware River and Bay Authority and amending P.L.1961, c.66.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 1 of P.L.1961, c.66 (C.32:11E-1) is amended to read as follows:

C.32:11E-1 Delaware-New Jersey Compact.

1. The State of New Jersey hereby agrees with the State of Delaware, upon enactment by the State of Delaware of legislation having the same effect as this section, to the following compact:

DELAWARE-NEW JERSEY COMPACT

WHEREAS, The states of Delaware and New Jersey are separated by the Delaware River and Bay which create a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two states thereby hindering the economic growth and development of those areas in both states which border the river and bay; and

WHEREAS, The pressures of existing trends from increasing traffic, growing population and greater industrialization indicate the need for closer cooperation between the two states in order to advance the economic development and to improve crossings, transportation, terminal and other facilities of the area; and

WHEREAS, The financing, construction, operation and maintenance of such crossings, transportation, terminal and other facilities of commerce and the overall planning for future economic development of the area may be best accomplished for the benefit of the two states and their citizens, the region and nation, by

the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority; and

WHEREAS, The Delaware-New Jersey Compact, enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. §1701) and P.L.1961, c.66 (C.32:11E-1 et seq.) of the Pamphlet Laws of New Jersey, with the consent of the United States Congress in accordance with Pub.L. 87-678 (1962), created the Delaware River and Bay Authority with the intention of advancing the economic growth and development of those areas in both states which border the Delaware River and Bay by the financing, development, construction, operation and maintenance of crossings, transportation or terminal facilities, and other facilities of commerce, and by providing for overall planning for the future economic development of those areas; and

WHEREAS, The economic growth and development of areas of both states will be further advanced by authorizing the authority to undertake economic development projects, other than major projects as defined in Article II, at its own initiative, and to undertake major projects after securing only such approvals as may be required by legislation of the state in which the project is to be located, except that the authority is prohibited from undertaking any major project, to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two states; and

WHEREAS, The natural environment of those areas in the two states which border the Delaware River and Bay would be better preserved by requiring that the projects, other than crossings, of the authority shall be in complete compliance with all applicable environmental protection laws and regulations before the authority may undertake the planning, development, construction or operation of any project, other than a crossing;

NOW, THEREFORE, The State of Delaware and the State of New Jersey do hereby solemnly covenant and agree, each with the other as follows:

ARTICLE I SHORT TITLE

This compact shall be known as the "Delaware-New Jersey Compact."

ARTICLE II DEFINITIONS

“Crossing” means any structure or facility adapted for public use in crossing the Delaware River or Bay between the states, whether by bridge, tunnel, ferry or other device, and by any vehicle or means of transportation of persons or property, as well as all approaches thereto and connecting and service routes and all appurtenances and equipment relating thereto.

“Transportation facility” and “terminal facility” mean any structure or facility other than a crossing as herein defined, adapted for public use within each of the states party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses, and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

“Commerce facility or development” means any structure or facility adapted for public use or any development for a public purpose within each of the states party hereto in connection with recreational and commercial fishery development, recreational marina development, aquaculture (marine farming), shoreline preservation and development (including wetlands and open-lands acquisition, active recreational and park development, beach restoration and development, dredge spoil disposal, and port-oriented development), foreign trade zone site development, manufacturing and industrial facilities, and other facilities of commerce which, in the judgment of the authority, are required for the sound economic development of the area.

“Appurtenances” and “equipment” mean all works, buildings, structures, devices, appliances and supplies, as well as every kind of mechanism, arrangement, object or substance related to and necessary or convenient for the proper construction, equipment, maintenance, improvement and operation of any crossing, transportation facility or terminal facility, or commerce facility or development.

“Project” means any undertaking or program for the acquisition or creation of any crossing, transportation facility or terminal facility, or commerce facility or development, or any part thereof, as well as for the operation, maintenance and improvement thereof.

“Major project” means any project, other than a crossing, having or likely to have significant environmental impacts on the Delaware River and Bay, its shorelines or estuaries, or any other area in the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, as determined in accordance with state law by the environmental agency of the state in which the major project is to be located.

“Tunnel” means a tunnel of one or more tubes.

“Governor” means any person authorized by the Constitution and law of each state to exercise the functions, powers and duties of that office.

“Authority” means the authority created by this compact or any agency successor thereto.

The singular whenever used in this compact shall include the plural, and the plural shall include the singular.

ARTICLE III FAITHFUL COOPERATION

They agree to and pledge, each to the other, faithful cooperation in the effectuation of this compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance and improvement of all projects entrusted to the authority created by this compact.

ARTICLE IV ESTABLISHMENT OF AGENCY; PURPOSES

The two states agree that there shall be created and they do hereby create a body politic, to be known as “The Delaware River and Bay Authority” (for brevity hereinafter referred to as the “authority”), which shall constitute an agency of government of the State of Delaware and the State of New Jersey for the following general public purposes, and which shall be deemed to be exercising essential government functions in effectuating such purposes, to wit:

(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of crossings between the states of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said

river, together with such approaches or connections thereto as in the judgment of the authority are required to make adequate and efficient connections between such crossings and any public highway, or other routes in the State of Delaware or in the State of New Jersey; and

(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any transportation or terminal facility within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, which facility, in the judgment of the authority, is required for the sound economic development of the area; and

(c) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any commerce facility or development within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, which in the judgment of the authority is required for the sound economic development of the area; and

(d) The performance of such other functions as may be hereafter entrusted to the authority by concurrent legislation expressly in implementation hereof.

The authority shall not undertake any major project or part thereof without having first secured such approvals as may be required by legislation of the state in which the project is to be located.

The authority shall not undertake any major project, or part thereof, to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without having first secured approval thereof by concurrent legislation of the two states expressly in implementation thereof.

The authority shall not undertake any major project or part thereof without first giving public notice and holding a public hearing, if requested, on any proposed major project, in accordance with the law of the state in which the major project is to be located. Each state shall provide by law for the time and manner for the giving of such public notice, the requesting of a public hearing and the holding of such public hearings.

ARTICLE V COMMISSIONERS

The authority shall consist of 12 commissioners, six of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of Delaware, and six of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of New Jersey; not more than three of the commissioners of each state shall be of the same political party; the commissioners for each state shall be appointed in the manner fixed and determined from time to time by the law of each state respectively. Each commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first commissioners shall be so designated that the term of at least one commissioner from each state shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any commissioner may be suspended or removed from office as provided by law of the state from which he shall be appointed.

Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the authority and may not receive any other compensation for services to the authority except such as may from time to time be authorized from such revenues by concurrent legislation.

ARTICLE VI BOARD ACTION

The commissioners shall have charge of the authority's property and affairs and shall, for the purpose of doing business, constitute a board; but no action of the commissioners shall be binding or effective unless taken at a meeting at which at least four commissioners from each state are present, and unless at least four commissioners from each state shall vote in favor thereof. The vote of any one or more of the commissioners from each state shall be subject to cancellation by the Governor of such state at any time within 10 days (Saturdays, Sundays and public holidays in the particular state excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each state may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.

ARTICLE VII
GENERAL POWERS

For the effectuation of its authorized purposes, the authority is hereby granted the following powers:

- a. To have perpetual succession.
- b. To adopt and use an official seal.
- c. To elect a chairman and a vice-chairman from among the commissioners. The chairman and vice-chairman shall be elected from different states, and shall each hold office for two years. The chairmanship and vice-chairmanship shall be alternated between the two states.
- d. To adopt bylaws to govern the conduct of its affairs by the board of commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties and functions, but no bylaw, or rule, regulation or order shall take effect until it has been filed with the Secretary of State of each state or in such other manner in each state as may be provided by the law thereof. In the establishment of rules, regulations and orders respecting the use of any crossing, transportation or terminal facility or commerce facility or development owned or operated by the authority, including approach roads, it shall consult with appropriate officials of both states in order to insure, as far as possible, uniformity of such rules, regulations and orders with the law of both states.
- e. To appoint, or employ, such other officers, agents, attorneys, engineers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.
- f. To enter into contracts and agreements with either state or with the United States, or with any public body, department, or other agency of either state or of the United States or with any individual, firm or corporation, deemed necessary or advisable for the exercise of its purposes and powers.
- g. To accept from any government or governmental department, agency or other public or private body, or from any other source, grants or contributions of money or property as well as loans, advances, guarantees, or other forms of financial assistance which it may use for or in aid of any of its purposes.

h. To acquire (by gift, purchase or condemnation), own, hire, lease, use, operate and dispose of property, whether real, personal or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility or other project owned by another, and which the authority is authorized to own and operate.

i. To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the authority for the purpose of connecting the same with any highway or other route in either state.

j. To borrow money and to evidence such loans by bonds, notes or other obligations, either secured or unsecured, and either in registered or unregistered form, and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the authority and by a facsimile of its corporate seal.

k. To procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

l. To grant the use of, by franchise, lease or otherwise, and to make charges for the use of, any crossing, facility or other project or property owned or controlled by it.

m. To exercise the right of eminent domain to acquire any property or interest therein.

n. To determine the exact location, system and character of and all other matters in connection with any and all crossings, transportation or terminal facilities, commerce facilities or developments or other projects which it may be authorized to own, construct, establish, effectuate, operate or control.

o. To exercise all other powers not inconsistent with the Constitutions of the two states or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

ARTICLE VIII
ADDITIONAL POWERS

For the purpose of effectuating the authorized purposes of the authority, additional powers may be granted to the authority by legislation of either state without the concurrence of the other, and may be exercised within such state, or may be granted to the authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the authority under the law of either state or of Congress without authorization by the law of both states.

ARTICLE IX
EMINENT DOMAIN

If the authority shall find and determine that any property or interest therein is required for a public use in furtherance of the purposes of the authority, said determination shall not be affected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the authority, shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted. The authority shall not exercise the power of eminent domain granted herein to acquire any property, other than a crossing, devoted to a public use, of either state, or of any municipality, local government, agency, public authority or commission, or of two or more of them, for any purpose other than a crossing, without having first secured the authorization of the holder of the title to the land in question and such other approvals as may be required by legislation of the state in which the project is to be located. The authority shall not exercise the power of eminent domain in connection with any commerce facility or development.

In any condemnation proceeding in connection with the acquisition by the authority of property or property rights of any character in either state and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the state in which such property is located with respect to the condemnation of property for the construction, reconstruction and maintenance of highways therein, shall control. The authority shall have the same power and authority with respect thereto as the state agency named in any such law; provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two states with respect

to the enactment, repeal or amendment of any law or rule of court on the subject of condemnation under which the authority may proceed by virtue of this article.

If the established grade of any street, avenue, highway or other route shall be changed by reason of the construction by the authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway or other route, the authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the state.

The power of the authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

ARTICLE X REVENUES AND APPLICATION

The authority is hereby authorized to establish, levy and collect such tolls and other charges as it may deem necessary, proper or desirable, in connection with any crossing, transportation or terminal facility, commerce facility or development, or other project which it is or may be authorized at any time to construct, own, operate or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the authority, together with interest thereon and (3) to provide reserves for such purposes; and the authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance and improvement of such facilities and projects, such proportion of the general expenses of the authority as it shall deem properly chargeable thereto.

ARTICLE XI COVENANT WITH BONDHOLDERS

The two said states covenant and agree with each other and with the holders of any bonds or other securities or obligations of the authority, assumed, issued or incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation or terminal facility, commerce facility or development, or other project, that the two said states will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish or impair the power of the authority to establish, levy and collect tolls and other charges in connection therewith, and that neither of the two said states will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned in Article IV (a) of this compact, by any person or body other than the authority; unless, in either case, adequate provision shall be made by law for the protection of those advancing money upon such obligations.

ARTICLE XII SECURITIES LAWFUL INVESTMENTS

The bonds or other securities or obligations which may be issued by the authority pursuant to this compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all state and municipal officers and bodies of each state, all banks, bankers, trust companies, savings banks, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of either state, may properly and legally invest any funds, including capital, belonging to them or within their control; and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any state or municipal officer or agency of either state for any purpose for which the deposit of bonds or other obligations of such state is now or may hereafter be authorized.

ARTICLE XIII TAX STATUS

The powers and functions exercised by the authority under this compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the states of Delaware and New Jersey, the region and nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either state or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either state or any subdivision thereof.

ARTICLE XIV JURISDICTION; USE OF LANDS

Each of the two states hereby consents to the use and occupancy by the authority of any lands and property of the authority in such state for the construction, operation, maintenance or improvement of any crossing, transportation or terminal facility, commerce facility or development, or other project which it is or may be authorized at any time to construct, own or operate, including lands lying under water.

ARTICLE XV REVIEW AND ENFORCEMENT OF RULES

Judicial proceedings to review any bylaw, rule, regulation, order or other action of the authority or to determine the meaning or effect thereof, may be brought in such court of each state, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such state might be brought.

Each state may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation or order of the authority, and, by law or rule of court, for the manner of enforcing the same.

ARTICLE XVI
NO PLEDGE OF CREDIT

The authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, of the State of New Jersey, or of any other agency or of any political subdivision of said states.

ARTICLE XVII
LOCAL COOPERATION AND AGREEMENTS

a. All municipalities, political subdivisions and every department, agency or public body of each of the states are hereby authorized and empowered to cooperate with, aid and assist the authority in effectuating the provisions of this compact and of any amendment hereof or supplement hereto.

b. The authority is authorized and empowered to cooperate with each of the states, or any political subdivision thereof, and with any municipality, local government, agency, public authority or commission of the foregoing, in connection with the acquisition, planning, rehabilitation, construction or development of any project, other than a crossing, and to enter into an agreement or agreements, subject to compliance with the laws of the state in which the project is to be located, with each of the states, or with any political subdivision thereof, and with any municipality, county, local government, agency, public authority or commission or with two or more of them, for or relating to such purposes.

c. The authority and the city, town, municipality or other political subdivision in which any project, other than a crossing, is to be located are hereby authorized and empowered, subject to compliance with the laws of the state in which the project is to be located, to enter into an agreement or agreements to provide which local laws, resolutions, ordinances, rules and regulations, if any, of the city, town, municipality or other political subdivision affected by such project shall apply to such project. All other existing local laws, resolutions, ordinances or rules and regulations not provided for in the agreement shall be applicable to the project, other than a crossing. All local laws, resolutions, ordinances or rules and regulations enacted after the date of the agreement shall not be applicable to such projects unless made applicable by the agreement or any modification thereto.

ARTICLE XVIII DEPOSITARIES

All banks, bankers, trust companies, savings banks and other persons carrying on a banking business under the laws of either state are authorized to give security for the safekeeping and prompt payment of moneys of the authority deposited by it with them, in such manner and form as may be required by and may be approved by the authority, which security may consist of a good and sufficient undertaking with such sureties as may be approved by the authority, or may consist of the deposit with the authority or other depositary approved by the authority as collateral of such securities as the authority may approve.

ARTICLE XIX AGENCY POLICE

Members of the police force established by the authority, regardless of their residence, shall have in each state, on the crossings, transportation or terminal facilities, commerce facilities or developments and other projects and the approaches thereto, owned, operated or controlled by the authority, and at such other places and under such circumstances as the law of each state may provide, all the powers of investigation, detention and arrest conferred by law on peace officers, sheriffs or constables in such state or usually exercised by such officers in each state.

ARTICLE XX REPORTS AND AUDITS

The authority shall make annual reports to the Governors and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

It shall, at least annually, cause an independent audit of its fiscal affairs to be made and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each state.

It shall furnish such information or data with respect to its affairs as may be requested by the Governor or Legislature of each state.

ARTICLE XXI
BOUNDARIES UNAFFECTED

The existing territorial or boundary lines of the states, or the jurisdiction of the two states established by said boundary lines, shall not be changed hereby.

ARTICLE XXII
ENVIRONMENTAL PROTECTION

a. The planning, development, construction and operation of any project, other than a crossing, shall comply with all environmental protection laws, regulations, directives and orders, including, without limitation, any coastal zone laws, wetlands laws, or subaqueous land laws or natural resource laws, now or hereinafter enacted, or promulgated by the state in which the project, or any part thereof, is located.

b. The planning, development, construction and operation of any project, other than a crossing, to be located in the Delaware River and Bay shall comply with all environmental protection laws, regulations, directives and orders, including, without limitation, any coastal zone laws, wetlands laws, subaqueous land laws or natural resource laws, now or hereinafter enacted or promulgated by either state.

c. The planning, development, construction and operation of any project, other than a crossing, located in the coastal zone of Delaware (as defined in Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989), shall be subject to the same limitations, requirements, procedures and appeals as apply to any other person under the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. Nothing in this compact shall be deemed to preempt, modify or supersede any provision of the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. The interpretation and application of this paragraph shall be governed by the laws of the State of Delaware and be determined by the courts of the State of Delaware.

d. The planning, development, construction and operation of any project, other than a crossing, located in New Jersey, shall be subject to the provisions of New Jersey law, when applicable, including, but not limited to, "The Wetlands Act of 1970," P.L.1970, c.272

(C.13:9A-1 et seq.) and the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.).

2. Section 2 of P.L.1961, c.66 (C.32:11E-2) is amended to read as follows:

C.32:11E-2 Appointment of commissioners.

2. The commissioners for the State of New Jersey, provided for in Article V of the compact set out in section 1 hereof, shall be appointed by the Governor with the advice and consent of the Senate as follows: one resident each from the counties of Salem, Cumberland, Gloucester and Cape May, and two at-large commissioners each of whom shall be a resident of the area embraced by the counties of Salem, Cumberland, Gloucester and Cape May. Notwithstanding the aforementioned residency requirement, any commissioner from the State of New Jersey serving on the effective date of this 1989 amendatory act shall be eligible for reappointment regardless of that commissioner's place of residence. Immediately upon enactment of this act, the Governor may so appoint the first commissioners for the State of New Jersey, notwithstanding that the said compact may not have yet taken effect. The persons nominated by him to serve as the first commissioners shall be authorized to sign duplicate originals of said compact on the part of the State of New Jersey and to apply to Congress for such consent thereto as may be required by law, although they may not then have been confirmed or have taken their oaths of office.

3. This act shall take effect immediately but shall remain inoperative until the enactment into law by the State of Delaware of legislation of substantially similar substance and effect; but if such legislation already has been enacted, this act shall take effect immediately.

Approved October 18, 1989.

CHAPTER 193

A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1990 and regulating the disbursement thereof," approved July 1, 1989 (P.L.1989, c.122).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. In addition to the amounts appropriated under P.L.1989, c.122, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES	
30 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS	
80 Special Government Services	
83 Services to Veterans	
3610 Veterans' Programs Support	
50-3610 Veterans' Outreach	
and Assistance	\$900,000
Special Purpose:	
Agent Orange Commission	(\$900,000)

2. This act shall take effect immediately.

Approved October 18, 1989.

CHAPTER 194

AN ACT appropriating \$35,000,000 from the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, reappropriating monies previously appropriated from the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and authorizing the use of interest earnings and loan repayments from the "New Jersey Green Acres Bond Act of 1983," to enable local government units to acquire and develop land for recreation and conservation purposes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. There is appropriated to the Department of Environmental

Protection from the "Green Trust Fund," established pursuant to section 22 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, the sum of \$35,000,000 to provide loans and grants to assist local government units to acquire and develop land for recreation and conservation purposes, which sum shall include administrative costs. The following projects are eligible for funding with the monies appropriated pursuant to this section:

LOCAL GOVERNMENT

<u>UNIT</u>	<u>COUNTY</u>	<u>PROJECT</u>
Atlantic County	Atlantic	Reeds Bay Acq.
Atlantic County	Atlantic	Seaview Estate Acq.
Brigantine City	Atlantic	Harbor Beach Boulevard Acq.
Margate City	Atlantic	Public Library Park Dev.
Mullica Township	Atlantic	Mullica Recreational Park Dev.
Bergen County	Bergen	Ramapo Mountain Addition Acq.
Bergen County	Bergen	Conservation Areas Acq.
Dumont Boro	Bergen	Mem. & Alladin Parks Dev.
Fort Lee Boro	Bergen	Palisades Pkwy Park Dev.
Franklin Lakes Boro	Bergen	Doerr Estate Acq.
Mahwah Township	Bergen	Frasco Property Acq.
Paramus Boro	Bergen	Wetland Conservation Acq.
Evesham Township	Burlington	Beagle Club Acq.
Riverside Township	Burlington	A.A. Field Dev.
Willingboro Township	Burlington	Rancocas Golf Course Acq.
Gloucester Township	Camden	Handicapped Facilities Dev.
Voorhees Township	Camden	North Branch/Lions Lake Dev.
Winslow Township	Camden	New Brooklyn Park Dev.
Dennis Township	Cape May	Recreational Facility #1 Acq.

LOCAL GOVERNMENT

<u>UNIT</u>	<u>COUNTY</u>	<u>PROJECT</u>
Ocean City	Cape May	59 St. Fishing Pier Dev.
Sea Isle City	Cape May	Marina Rec. Complex Dev.
Wildwood City	Cape May	Beachfront Acq.
Vineland City	Cumberland	Maurice River/ Greenbelt Acq.
Essex County	Essex	Black Bear Exhbt. T.B.Z. Dev.
Belleville Township	Essex	Municipal Stadium Dev.
Irvington Township	Essex	Parkway Park Dev.
Nutley Township	Essex	Kingsland Gardens/ Park Dev.
Gloucester County	Gloucester	Scotland Run Boat Ramp Dev.
Mantua Township	Gloucester	Township Recreation Area Dev.
Monroe Township	Gloucester	Earling E. Owens Field 4 Dev.
Washington Township	Gloucester	Washington Lake Park Dev.
Jersey City	Hudson	L. Palisades Greenway Acq.
North Bergen Township	Hudson	Braddock Park III Dev.
Weehawken Township	Hudson	Aricale Field Dev.
West New York Town	Hudson	Washington Park Dev.
Hunterdon County	Hunterdon	Echo Hill Section Dev.
Clinton Township	Hunterdon	Spruce Run Overlook Acq.
Ewing Township	Mercer	Municipal Complex Park Acq.
Hamilton Township	Mercer	Veterans Park Addition Acq.
Lawrence Township	Mercer	Village Park Dev.
Princeton Township	Mercer	Tusculum Tract Acq.
Perth Amboy City	Middlesex	Waterfront Park Phase 2 Dev.
Woodbridge Township	Middlesex	Bowtie Soccer Field Dev.

LOCAL GOVERNMENT

<u>UNIT</u>	<u>COUNTY</u>	<u>PROJECT</u>
Monmouth County	Monmouth	Manasquan Reservoir Dev.
Monmouth County	Monmouth	Stream Valley Acq.
Asbury Park City	Monmouth	Casino Plaza/ Esplanade Dev.
Atlantic Highlands Boro	Monmouth	Harbor Park Dev.
Englishtown Boro	Monmouth	Lake Weamaconk Park Dev.
Keyport Boro	Monmouth	Waterfront Park Dev.
Middletown Township	Monmouth	Port Monmouth Waterfront Dev.
Neptune Township	Monmouth	Stout Farm Acq.
Red Bank Boro	Monmouth	Eastside Park Dev.
Denville Township	Morris	Jersey City Watershed Acq.
Montville Township	Morris	Pyramid Mountain Acq.
Ocean County	Ocean	Golf Course Acq.
Brick Township	Ocean	Boland Field Acq.
Brick Township	Ocean	Lake Riviera Beach Club Dev.
Harvey Cedars Boro	Ocean	Waterfront Rec. Area Dev.
Little Egg Harbor Township	Ocean	Parkertown Dock Dev.
Long Beach Township	Ocean	Bayfront Park Dev.
Seaside Heights Boro	Ocean	Beachfront Acq.
Seaside Park Boro	Ocean	Levine Park/Ballfields Dev.
Tuckerton Boro	Ocean	Willow Landing Dev.
Paterson City	Passaic	Riverfront Park & Walkway Dev.
Pennsville Township	Salem	Riverview Beach Park Dev.
Somerset County	Somerset	D & R Greenway Acq.
Bridgewater Township	Somerset	Tullo Rd. Soccer Complex Dev.
Hillsborough Township	Somerset	Ann Van Middlesworth Dev.
Fredon Township	Sussex	Lodestar Park Acq.
Stanhope Boro	Sussex	Salmon Memorial Park Dev.

LOCAL GOVERNMENT

<u>UNIT</u>	<u>COUNTY</u>	<u>PROJECT</u>
Sussex Boro	Sussex	Clove Lake Dev.
Cranford Township	Union	Canoe Club Acq.
Kenilworth Boro	Union	Joseph T. DiMario Park Dev.
Independence Township	Warren	Pequest River Corr. Acq.
Liberty Township	Warren	Recreation Site Dev.

2. a. There are appropriated to the Department of Environmental Protection the unexpended balances of the amounts appropriated pursuant to P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, and P.L.1988, c.23 from the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, for the purpose of making loans and grants to the local government units for the projects listed in section 1 of this act, to the extent such funds are available as a result of project withdrawals or cost savings.

b. There are appropriated to the Department of Environmental Protection such sums as may be available on or before June 30, 1990 due to interest earnings or loan repayments, in the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, for the purpose of making loans and grants to the local government units for the projects listed in section 1 of this act.

3. To the extent that monies remain available after the projects listed in section 1 of this act are offered funding, the following projects shall be eligible for funding in a sequence consistent with the priority system established by the Department of Environmental Protection:

LOCAL GOVERNMENT

<u>UNIT</u>	<u>COUNTY</u>	<u>PROJECT</u>
Atlantic County	Atlantic	River Bend Sports Complex
Hamilton Township	Atlantic	Underhill Park
Little Ferry Boro	Bergen	Wetlands Preservations
Little Ferry Boro	Bergen	Indian Lake Park
Pemberton Township	Burlington	Sports Complex
Cedar Grove Township	Essex	Morgan's Farm
West Caldwell Township	Essex	Richard Park Improvements

LOCAL GOVERNMENT

<u>UNIT</u>	<u>COUNTY</u>	<u>PROJECT</u>
Jersey City	Hudson	Astor Place Park
North Bergen Township	Hudson	46th Street Park
Clinton Township	Hunterdon	Walter Edge Foran Park II
Mercer County	Mercer	Hart/Townsend Farm
Hamilton Township	Mercer	Veterans Pk. Amphitheater
Old Bridge Township	Middlesex	Geick Park Phase 2
Eatontown Boro	Monmouth	80 Acre Park Development
Little Silver Boro	Monmouth	Sickles Farm Park
Neptune Township	Monmouth	Jumping Brook Park Ph II
Neptune Township	Monmouth	Sunshine Village Park
Butler Boro	Morris	Stonybrook Park Dev.
Montville Township	Morris	Roe-Ri Park Acq.
Dover Township	Ocean	Messenger Street Park
Stafford Township	Ocean	Mill Creek Park
Totowa Boro	Passaic	Minnisink Recreation Park

4. Pursuant to the provisions of subsection c. of section 9 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and pursuant to subsection d. of section 4 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, as appropriate, all loans made to local government units with moneys appropriated pursuant to this act shall bear interest of not more than 2% per year and shall be for a term of not more than 20 years. All principal and interest payments repaid by the local government units shall be deposited into the respective "Green Trust Fund" from which the monies were appropriated in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be approved by the State Treasurer.

5. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1983, c.354 and P.L.1987, c.265, as appropriate.

6. This act shall take effect immediately.

Approved October 25, 1989.

CHAPTER 195

AN ACT concerning energy conservation improvements, and appropriating moneys from the "Petroleum Overcharge Reimbursement Fund."

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. There is appropriated to the Department of Commerce, Energy and Economic Development from the Petroleum Overcharge Reimbursement Fund established pursuant to section 1 of P.L.1987, c.231, the sum of \$10,000,000 for an energy conservation grant program which shall be implemented by the New Jersey Housing and Mortgage Finance Agency. This program shall be dedicated to financing energy conservation improvements in multi-family senior citizen and handicapped citizen housing funded by the New Jersey Housing and Mortgage Finance Agency.

2. There is appropriated to the Department of Community Affairs from the Petroleum Overcharge Reimbursement Fund established pursuant to section 1 of P.L.1987, c.231, the sum of \$10,000,000 for the retrofitting of existing, or the installation of new, heating systems in single-family and multi-family senior and disabled citizen residences.

3. a. The commissioner of any department receiving an appropriation pursuant to this act shall issue guidelines concerning the eligibility for available funds and procedures for the distribution of funds, and may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this act.

b. The sums appropriated pursuant to this act shall be obligated by the departments receiving an appropriation within three years of the effective date of this act.

c. Within two years of the effective date of this act, the departments receiving an appropriation pursuant to this act shall submit to the Governor and the Legislature a report detailing the proposed and actual expenditure of the sums appropriated.

4. This act shall take effect immediately.

Approved November 9, 1989.

CHAPTER 196

AN ACT concerning the State Board of Higher Education and amending N.J.S.18A:3-10.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.18A:3-10 is amended to read as follows:

Meetings.

18A:3-10. The board of higher education shall hold public meetings as it deems necessary to fulfill its duties and obligations at such places within the State as it shall designate no less than once each month for 10 months per year.

2. This act shall take effect immediately.

Approved November 9, 1989.

CHAPTER 197

AN ACT creating alternative programs to detention and incarceration of juveniles and making an appropriation therefor.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.30:1B-26 Findings, declarations.

1. The Legislature finds and declares that: several of the county juvenile detention facilities in this State intended for the housing of juveniles prior to adjudication of delinquency have become so severely overcrowded as to jeopardize the achievement of the goals of the juvenile justice system; the primary causes of overcrowding in juvenile detention facilities are the unavailability of alternatives to detaining juveniles in order to assure their presence at the next court proceeding and the improper housing in those detention facilities of juveniles adjudicated delinquent who are awaiting placement in an appropriate State institution for the rehabilitation of delinquents or other specialized State program; and therefore, the establishment of alternatives to detention for pre-adjudicatory delinquents and the expansion of existing State programs for adjudicated juvenile delinquents is an urgent priority.

C.30:1B-27 "Alternatives to Juvenile Incarceration Grant Program," established; selection of community-based groups to participate; allocation of moneys.

2. There is established in the Department of Corrections the "Alternatives to Juvenile Incarceration Grant Program" for the purpose of developing community-based programs for the placement of juveniles who are awaiting delinquency adjudication or who have been adjudicated delinquent. The Commissioner of Corrections shall distribute all funds appropriated for this program in accordance with the provisions of this section.

a. Within 60 days of the effective date of this act, the commissioner shall solicit proposals from community-based groups interested in participating in the program. A community-based group interested in participating in the program shall submit its proposal to the commissioner.

The commissioner, in consultation with those persons from each county charged with the responsibility for planning youth services shall review the proposals and approve and fund, within the limits of moneys appropriated for this purpose, the proposals which best meet the criteria in subsection b. of this section and the purposes of this program.

b. The criteria for the review of the proposals shall include, but not be limited to:

(1) The potential of the grant recipient to develop a successful program for the placement of adjudicated delinquents into non-custodial settings, or the potential of the grant recipient to develop a successful program for placing juveniles awaiting delinquency adjudication into non-custodial settings which will ensure their presence at the next court proceeding, as appropriate; and

(2) The financial and managerial commitment of the grant recipient to the development of a successful program under paragraph (1) of this subsection.

c. (1) The commissioner shall award no less than 75% of the moneys allocated to this program to proposals which address the needs of those counties with populations in their respective juvenile detention facilities which were in excess of 100% of the maximum population capacity for the facility as assigned by the Department of Corrections and the Department of Human Services in accordance with the provisions of section 18 of P.L.1982, c.77 (C.2A:4A-37) in each of the five months immediately preceding the effective date of this act.

(2) The commissioner shall award the remainder of the moneys allocated to this program to proposals which address the needs of those counties which do not receive funding pursuant to paragraph (1) of this subsection.

d.(1) In accordance with the requirements of subsection c. of this section, the commissioner shall award 30% of the moneys allocated to this program to proposals which provide alternatives to detention for juveniles in a county juvenile detention facility awaiting delinquency adjudication. The commissioner shall not award any of the funds specified in this paragraph to any unit or division of the Department of Corrections. A juvenile shall not be placed in a program funded pursuant to this paragraph unless the juvenile meets the criteria for placing a juvenile in detention pursuant to section 15 of P.L.1982, c.77 (C.2A:4A-34).

(2) The commissioner shall award 70% of the moneys allocated to this program to proposals from community-based groups which provide alternatives to incarceration for juveniles who have been adjudicated delinquent. In the event that the commissioner does not receive a sufficient number of proposals acceptable to him which conform to the requirements of this paragraph and the other criteria of this section, the commissioner may use the remainder of the funds subject to the requirements of this paragraph to fund a program within the department which provides an alternative to incarceration for juveniles who have been adjudicated delinquent.

e. The commissioner shall not award any funds allocated to this program for the operation or expansion of secured facilities for juveniles.

f. The grants made pursuant to this act shall not be subject to the requirements of P.L.1954, c.48 (C.52:34-6 et seq.).

C.30:1B-28 "Youth Vocational Training and Aftercare Program," established; allocation of moneys.

3. There is established in the Department of Corrections a "Youth Vocational Training and Aftercare Program." The Commissioner of Corrections shall distribute all moneys appropriated for this program in accordance with the provisions of this section.

a. The commissioner shall provide funds to the New Jersey Training School for Boys, the Juvenile Medium Security Facility and the Lloyd McCorkle Training School for Boys and Girls for vocational education and training of juveniles.

b. The commissioner shall establish a program for community-based services, both day and residential, which shall include vocational education and training projects affiliated with community colleges and vocational schools, to be developed in those counties with the greatest need. This program shall be available to juveniles served by the Department of Corrections.

The commissioner shall not expend any funds allocated to this program for the operation or expansion of secured facilities for juveniles.

c. The commissioner shall establish a program for aftercare services, both day and residential, to facilitate the transition of juveniles who have been served by the Department of Corrections, to be developed in those counties with the greatest needs.

C.30:1B-29 Expansion of services to include emotionally disturbed juveniles.

4. Within the limits of funds appropriated pursuant to this act, the Commissioner of Corrections shall expand existing services to include those juveniles who are adjudicated delinquent and require placement in custodial or residential facilities and who have been identified as being emotionally disturbed by a child study team but who are not presently in a specialized program for this condition.

The commissioner shall allocate funds appropriated for this purpose among existing and newly developed community residential programs and therapeutic foster homes in order to provide additional beds for emotionally disturbed juveniles. The commissioner shall not allocate any funds appropriated for the purposes of this section for treatment of juveniles adjudicated delinquent who are developmentally disabled or for juveniles who are classified for the New Jersey Training School for Boys, the Lloyd McCorkle Training School for Boys and Girls or the Juvenile Medium Security Facility.

C.30:1B-30 Expansion of services to include juvenile sex offenders.

5. The commissioner shall expand, within the limits of funds appropriated for this purpose, existing services to provide additional beds for treatment of juvenile sex offenders.

C.30:1B-31 Rules, regulations.

6. The Commissioner of Corrections shall adopt rules and regulations necessary to effectuate the purposes of this act in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.30:1B-32 Commissioners to report to Governor and Legislature.

7. Within six months of the effective date of this act and six months thereafter, the Commissioner of Corrections, in consultation with the Commissioner of Human Services, shall report to the Governor and the Legislature on the effectiveness of the programs established pursuant to this act. The report shall include, but not be limited to, the current number of juveniles being detained in juvenile detention facilities, the number and effectiveness of proposals funded pursuant to this act, the numbers of juvenile sex offenders and emotionally disturbed juveniles treated with funds appropriated pursuant to this act, the number of juveniles detained pending adjudication who were released into programs funded by grants under this act, the number of juveniles in need of community services who have not been able to receive the services, and the number of juveniles held in juvenile detention facilities pending placement in facilities operated by, or which contract with, the Department of Human Services or pending transfer to training schools operated by the Department of Corrections.

8. There is appropriated from the General Fund to the Department of Corrections \$2,500,000 to carry out the purposes of this act.

Of this sum, \$750,000 is allocated to the "Alternatives to Juvenile Incarceration Grant Program"; \$950,000 is allocated to the "Youth Vocational Training and Aftercare Program," of which \$250,000 is for education and training at State facilities pursuant to subsection a. of section 3 of this act and \$700,000 is for community-based service programs and community-based aftercare programs pursuant to subsections b. and c. of section 3 of this act; \$400,000 is allocated to expanded services to emotionally disturbed juveniles pursuant to section 4 of this act; and \$400,000 is allocated for expanded services to juvenile sex offenders pursuant to section 5 of this act.

9. This act shall take effect immediately.

Approved November 28, 1989.

CHAPTER 198

AN ACT concerning pension credit for certain service rendered by members of the Teachers' Pension and Annuity Fund, amending N.J.S.18A:66-2 and supplementing chapter 66 of Title 18A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.18A:66-2 is amended to read as follows:

Definitions.

18A:66-2. As used in this article:

- a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by him or in his behalf, including interest credited to January 1, 1956, standing to the credit of his individual account in the annuity savings fund.
- b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this article.
- c. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this article.
- d. "Compensation" means the contractual salary, for services as a teacher as defined in this article, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular school day or the regular school year.
- e. "Employer" means the State, the board of education or any educational institution or agency of or within the State by which a teacher is paid.
- f. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding his retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

g. "Fiscal year" means any year commencing with July 1, and ending with June 30, next following.

h. "Pension" means payments for life derived from appropriations made by the State or employers to the Teachers' Pension and Annuity Fund.

i. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this article, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

j. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted to a member from the Teachers' Pension and Annuity Fund, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

k. "Present-entrant" means any member of the Teachers' Pension and Annuity Fund who had established status as a "present-entrant member" of said fund prior to January 1, 1956.

l. "Rate of contribution initially certified" means the rate of contribution certified by the retirement system in accordance with N.J.S.18A:66-29.

m. "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the directors of the Divisions of Investment and Pensions and the actuary of the fund. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

n. "Retirement allowance" means the pension plus the annuity.

o. "School service" means any service as a "teacher" as defined in this section.

p. "Teacher" means any regular teacher, special teacher, helping teacher, teacher clerk, principal, vice-principal, supervisor, supervising principal, director, superintendent, city superintendent, assistant city superintendent, county superintendent, State Commissioner or Assistant Commissioner of Education, members of the State Department of Education who are certificated, unclassified professional staff and other members of the teaching or professional staff of any class, public school, high school, normal school, model

school, training school, vocational school, truant reformatory school, or parental school, and of any and all classes or schools within the State conducted under the order and superintendence, and wholly or partly at the expense of the State Board of Education, of a duly elected or appointed board of education, board of school directors, or board of trustees of the State or of any school district or normal school district thereof, and any persons under contract or engagement to perform one or more of these functions. It shall also mean any person who serves, while on an approved leave of absence from regular duties as a teacher, as an officer of a local, county or State labor organization which represents, or is affiliated with an organization which represents, teachers as defined in this subsection. No person shall be deemed a teacher within the meaning of this article who is a substitute teacher. In all cases of doubt the board of trustees shall determine whether any person is a teacher as defined in this article.

q. "Teachers' Pension and Annuity Fund," hereinafter referred to as the "retirement system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this article, including the several funds placed under said system. By that name all its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose his United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not he has completed the 90-day service as herein provided;

(11) Korean conflict after June 23, 1950, and prior to July 27, 1953, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not he has completed the 90-day service as herein provided; and provided further that any member

classified as a veteran pursuant to this subsection prior to August 1, 1966, shall continue to be classed as a veteran, whether or not he completed the 90-day service between said dates as herein provided;

(12) Vietnam conflict, after December 31, 1960, and prior to the date of termination as proclaimed by the Governor, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not he has completed the 90-day service as herein provided.

s. "Child" means a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

t. "Widower" means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

u. "Widow" means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least one-half of her support from the member in the 12-month period immediately preceding the member's death or the

accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

v. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

w. "Medical board" means the board of physicians provided for in N.J.S.18A:66-56.

C.18A:66-14.2 Retirement system credit to member on leave of absence.

2. a. Any person who serves, while on an approved leave of absence from regular duties as a teacher, as an officer of a local, county or State labor organization which represents, or is affiliated with an organization which represents, teachers as defined in N.J.S.18A:66-2, shall receive credit in the retirement system for the service. The person receiving the credit shall be liable, with respect to the service to be credited, for payment to the retirement system of both the contributions that would have been required under N.J.S.18A:66-29 and N.J.S.18A:66-31 and the contributions that would have been required under N.J.S.18A:66-33 if that service had been rendered as regular teaching service to the employer granting the leave of absence. The contributions shall be based upon the compensation that would have been received by the person under the locally negotiated salary guide had that person remained in regular teaching service.

b. Any person who, prior to the effective date of this 1989 amendatory and supplementary act, has rendered service as defined in subsection a. and who has not received credit in the retirement system for that service may elect, within one year after that effective date, to purchase credit for the service. The cost of the purchase shall be computed by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase and necessary to provide for the full cost, as considered in developing the purchase factors for military service, attributable to the purchased credit, to the member's salary at that time for a member in regular teaching service or the salary the member would be receiving at that time on the locally negotiated salary guide for a member serving as

an officer of a local, county or State labor organization. All other terms of the purchase and the credit granted shall be as stipulated for the purchase of previous membership service by N.J.S.18A:66-9.

3. This act shall take effect immediately.

Approved November 28, 1989.

CHAPTER 199

AN ACT clarifying the appointment and term of office of elected officials serving on the Council on Affordable Housing, and amending P.L.1985, c.222.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 5 of P.L.1985, c.222 (C.52:27D-305) is amended to read as follows:

C.52:27D-305 Council on affordable housing; members; appointment; term of office; vacancies; compensation; chairman; removal of members.

5. a. There is established in, but not of, the Department of Community Affairs a Council on Affordable Housing to consist of nine members appointed by the Governor with the advice and consent of the Senate, of whom four shall be elected officials representing the interests of local government, at least one of whom shall be representative of an urban municipality having a population in excess of 40,000 persons and a population density in excess of 3,000 persons per square mile, at least one of whom shall be representative of a municipality having a population of 40,000 persons or less and a population density of 3,000 persons per square mile or less, and no more than one of whom may be a representative of the interests of county government; two shall represent the interests of households in need of low and moderate housing, one of whom shall represent the interests of the builders of low and moderate income housing, and shall have an expertise in land use practices and housing issues and one of whom shall be the executive director of the agency, serving ex officio; and three shall represent the public interest. Not more than five of the nine shall be members of the same political party. The membership shall be balanced to the greatest extent practicable among the various housing regions of the State.

b. The members shall serve for terms of six years, except that of the members first appointed, two shall serve for terms of four years, three for terms of five years, and three for terms of six years. All members shall serve until their respective successors are appointed and shall have qualified. Notwithstanding the above, a member appointed to represent the interests of local government shall serve only such length of the term for which appointed as the member continues to hold elected local office, except that the term of a member so appointed shall not become vacant until 60 days after the member ceases to hold that elected office. Vacancies shall be filled in the same manner as the original appointments, but for the remainders of the unexpired terms only.

c. The members excluding the executive director of the agency shall be compensated at the rate of \$150.00 for each six-hour day, or prorated portion thereof for more or less than six hours, spent in attendance at meetings and consultations and all members shall be eligible for reimbursement for necessary expenses incurred in connection with the discharge of their duties.

d. The Governor shall nominate the members within 30 days of the effective date of this act, and shall designate a member to serve as chairman throughout the member's term of office and until his successor shall have been appointed and qualified.

e. Any member may be removed from office for misconduct in office, willful neglect of duty, or other conduct evidencing unfitness for the office, or for incompetence. A proceeding for removal may be instituted by the Attorney General in the Superior Court. A member or employee of the council shall automatically forfeit his office or employment upon conviction of any crime. Any member or employee of the council shall be subject to the duty to appear and testify and to removal from his office or employment in accordance with the provisions of P.L.1970, c.72 (C.2A:81-17.2a et seq.).

2. This act shall take effect immediately, but shall not be applicable to members serving an unexpired term on the Council on Affordable Housing as representatives of local government at the time of enactment.

Approved November 28, 1989.

CHAPTER 200

AN ACT concerning special parking privileges for handicapped persons and supplementing article 23 of chapter 4 of Title 39 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.39:4-207.6 Definitions.

1. As used in this act:

a. "Appropriate identification" means, in the case of a restricted parking zone, a permit issued by a municipality under the authority granted by section 2 of P.L.1977, c.309 (C.39:4-197.7) and, in the case of a restricted parking space, a placard or wheelchair symbol license plates issued by the Division of Motor Vehicles under section 3 of P.L.1949, c.280 (C.39:4-206).

b. "Eligible handicapped person" means a handicapped person who is the holder of (1) an identification card issued by the Division of Motor Vehicles under section 2 of P.L.1949, c.280 (C.39:4-205), or (2) a permit issued by a municipality under the authority granted by section 2 of P.L.1977, c.309 (C.39:4-197.7).

c. "Park unlawfully" means to park a motor vehicle in a restricted parking space or a restricted parking zone if the motor vehicle does not display appropriate identification.

d. "Restricted parking space" means a parking space which the State or a local government has established for the exclusive use of a handicapped person but shall not include a restricted parking zone established under section 1 of P.L.1977, c.309 (C.39:4-197.6).

e. "Restricted parking zone" means a parking zone in front of the residence of a handicapped person which a municipality has established for the use of that handicapped person under the authority granted by section 1 of P.L.1977, c.309 (C.39:4-197.6).

C.39:4-207.7 Removal of motor vehicle parked unlawfully in restricted parking space or zone.

2. a. An eligible handicapped person may request a law enforcement officer to arrange for the removal and storage of a motor vehicle which is parked unlawfully in a parking space or zone which is restricted for use by a handicapped person. It shall be the obligation of the owner of the motor vehicle to pay the reasonable costs for the removal and for any storage which may result from the removal.

b. The removal of a motor vehicle under this section is subject to local ordinances concerning the regulation of that practice, including, but not limited to, the fees charged for the removal, notice requirements therefor, and the licensing of persons engaged in that practice.

c. The assessment of removal and storage costs against a person under this section shall be in addition to any other penalty assessed against the person.

3. This act shall take effect immediately.

Approved November 29, 1989.

CHAPTER 201

AN ACT concerning parking spaces designated for the vehicles of the physically handicapped, amending R.S.39:4-138, R.S.39:4-197, and R.S.39:4-198, and amending and supplementing P.L.1949, c.280 (C.39:4-204 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.39:4-138 is amended to read as follows:

Places where parking prohibited; exceptions; moving vehicle not under one's control into prohibited area.

39:4-138. Except when necessary to avoid conflict with other traffic or in compliance with the directions of a traffic or police officer or traffic sign or signal, no operator of a vehicle shall stand or park the vehicle in any of the following places:

- a. Within an intersection;
- b. On a crosswalk;
- c. Between a safety zone and the adjacent curb or within at least 20 feet of a point on the curb immediately opposite the end of a safety zone;
- d. In front of a public or private driveway;
- e. Within 25 feet of the nearest crosswalk or side line of a street or intersecting highway, except at alleys;
- f. On a sidewalk;

g. In any appropriately marked "No Parking" space established pursuant to the duly promulgated regulations of the Commissioner of Transportation;

h. Within 50 feet of a "stop" sign;

i. Within 10 feet of a fire hydrant;

j. Within 50 feet of the nearest rail of a railroad crossing;

k. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance, when properly signposted;

l. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic, when properly signposted;

m. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

n. Upon any bridge or other elevated structure upon a highway, or within a highway tunnel or underpass, or on the immediate approaches thereto except where space for parking is provided;

o. In any space on public or private property appropriately marked for vehicles for the physically handicapped pursuant to P.L.1977, c.202 (C.39:4-197.5), P.L.1975, c.217 (C.52:27D-119 et seq.) or any other applicable law unless the vehicle is authorized by law to be parked therein and a handicapped person is either the driver or a passenger in that vehicle. State, county or municipal law enforcement officers or parking enforcement authority officers shall enforce the parking restrictions on spaces appropriately marked for vehicles for the physically handicapped on both public and private property.

No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

2. R.S.39:4-197 is amended to read as follows:

Ordinance or resolution on matters covered by chapter.

39:4-197. Except as otherwise provided in R.S.39:4-8, no municipality shall pass an ordinance or resolution on a matter covered by or which alters or in any way nullifies the provisions of this chapter or any supplement to this chapter; except that a municipality may pass ordinances or resolutions, or by ordinances or resolutions may authorize the adoption of regulations by the board, body or official

having control of traffic in the public streets, regulating special conditions existent in the municipality on the subjects and within the limitations following:

(1) Ordinance.

- a. Altering speed limitations as provided in R.S.39:4-98;
- b. Limiting use of streets to certain class of vehicles;
- c. Designating one-way streets;
- d. Regulating the stopping or starting of street cars at special places, such as railroad stations, public squares or in front of certain public buildings;
- e. Regulating the passage or stopping of traffic at certain congested street corners or other designated points;
- f. Regulating the parking of vehicles on streets and portions thereof, including angle parking as provided in R.S.39:4-135;
- g. Regulating the parking of vehicles upon land owned or leased and maintained by the municipality, a parking authority or the board of education of a school district, including any lands devoted to the public parking of vehicles, the entrances thereto and exits therefrom;
- h. Regulating the entrances to and exits from parking yards and parking places which are open to the public or to which the public is invited, except that this shall not apply to entrances or exits to and from State highways;
- i. Designating streets or roads upon which buses and trucks over four tons gross weight may be required not to exceed specially fixed limits based on engineering and traffic investigation and to use a lower gear in descending steep declivities having a grade in excess of 5% fixing such special speed limits and providing for the use of such a gear thereon.

(2) Ordinance or resolution.

- a. Designating through streets, as provided in article 17 of this chapter (R.S.39:4-140 et seq.);
- b. Designating and providing for the maintenance as "no passing" zones of portions of highway where overtaking and passing or driving to the left of the roadway is deemed especially hazardous.

(3) Ordinance, resolution or regulation.

- a. Designating stops, stations or stands for omnibuses and taxis;
- b. Designating curb loading zones;
- c. Designating restricted parking spaces for use by persons who have been issued special vehicle identification cards by the Division of Motor Vehicles pursuant to the provisions of P.L.1949, c.280 (C.39:4-204 et seq.) and section 1 of P.L.1977, c.202 (C.39:4-197.5). Any person parking a motor vehicle in a restricted parking space without a special vehicle identification card shall be liable to a fine of \$100.00 for the first offense and, for subsequent offenses, a fine of at least \$100.00 and up to 90 days' community service on such terms and in such form as the court shall deem appropriate, or any combination thereof.

3. Section 3 of P.L.1949, c.280 (C.39:4-206) is amended to read as follows:

C.39:4-206 Certificate to be pasted on windshield; license plate insignia or marker.

3. The director shall issue to such applicant, also, a placard of such size and design as shall be determined by the director in consultation with the Division of Vocational Rehabilitation Services in the Department of Labor, indicating that a handicapped person identification card has been issued to the person designated therein, which shall be displayed in such manner as the director shall determine on the motor vehicle used to transport the handicapped person, when the vehicle is parked overtime or in special parking places established for use by handicapped persons.

Notwithstanding any provision of this act to the contrary, the chief of police of each municipality in this State shall issue to any person who has temporarily lost the use of one or more limbs or is temporarily disabled as to be unable to ambulate without the aid of an assisting device or whose mobility is otherwise temporarily limited, as certified by a physician with a plenary license to practice medicine and surgery in this State or a bordering state, a temporary placard of not more than six months' duration. Each temporary handicapped placard issued under the provisions of this section shall set forth the date on which it shall become invalid.

The temporary placard shall be granted upon written certification by a physician with a plenary license to practice medicine and surgery in this State or a bordering state that the person meets the conditions constituting temporary disability as provided in this section. This certification shall be provided on a standard form to be developed by the director in consultation with local chiefs of police

and representatives of the handicapped. The form shall contain only those conditions constituting temporary disability as are provided in this section. The physical presence of the handicapped person shall not be required for the issuance of a temporary handicapped placard.

The placard may be renewed one time at the discretion of the issuing authority for a period of not more than six months' duration. The placard shall be displayed on the motor vehicle used by the temporarily handicapped person and shall give the person the right to park overtime or to use special parking places established for use by handicapped persons in any municipality of this State.

The fee for the issuance of such temporary or permanent placard issued pursuant to this section shall be \$4.00 and payable to the Director of the Division of Motor Vehicles.

The director may, in addition, issue license plates bearing the national wheelchair symbol for not more than two motor vehicles owned, operated or leased by a handicapped person or by any person furnishing transportation on his behalf.

The fee for the issuance of such plates shall be \$10.00 for each vehicle.

4. Section 4 of P.L.1949, c.280 (C.39:4-207) is amended to read as follows:

C.39:4-207 Parking overtime by driver of motor vehicle with placard or wheelchair symbol license plates; no penalty.

4. No penalty shall be imposed for the parking overtime of any motor vehicle which has displayed thereon a placard or wheelchair symbol license plates issued pursuant to the provisions of this act under any law or municipal ordinance now in effect or hereafter enacted unless such vehicle shall have been parked in one location for more than 24 hours. This provision shall apply only when the person to whom the placard or special license plate has been issued is either the driver or a passenger of the vehicle.

5. R.S.39:4-198 is amended to read as follows:

Notice of ordinance, resolution or regulation by signs.

39:4-198. No ordinance, resolution or regulation enacted, passed, or adopted by local authorities nor any regulation adopted by the Commissioner of Transportation under any power given by this chapter or any supplement thereto shall be effective unless due notice thereof is given to the public by placing a sign at the places where the ordinance, resolution or regulation is effective, and by briefing

its provisions on signs according to specifications contained in this chapter or as specified by the current Manual on Uniform Traffic Control Devices for streets and highways. These signs shall be so placed as to be easily read by pedestrians or operators of vehicles. Except, in the case of "No Passing" zones, in lieu of or in addition to signs, notice shall be given to the public by highway pavement markings which conform to the current Manual on Uniform Traffic Control Devices for streets and highways.

In addition to the specifications in the Manual on Uniform Traffic Control Devices, any sign erected after the effective date of this amendatory and supplementary act to notify the public that parking in a space is reserved for the handicapped shall also state the penalties set forth in paragraph c. of subsection (3) of R.S.39:4-197 which may be imposed for a violation. Signs which were erected prior to the effective date shall be modified within 12 months after the effective date to include the penalty information.

C.39:4-207.8 Issuance of handicapped nursing home resident identification card and windshield placard for nursing home vehicles.

6. The Director of the Division of Motor Vehicles in the Department of Law and Public Safety shall issue a handicapped nursing home resident identification card and corresponding windshield placard upon the application of a nursing home owner or operator for use in a vehicle owned or operated by the nursing home when that vehicle is used to transport handicapped nursing home residents. The identification card and corresponding windshield placard shall identify the nursing home owner or operator and the registration number of the nursing home's vehicle for which the card is issued, and shall state that: the nursing home owner or operator is validly qualified to receive the identification card and corresponding windshield placard; the identification card and corresponding windshield placard are for the exclusive use of the nursing home's vehicle when transporting a handicapped nursing home resident; the identification card and corresponding windshield placard are not transferable and will be forfeited if used for purposes not authorized under this act; and an abuse of any privilege, benefit, precedence or consideration granted to a person to whom the identification card and corresponding windshield placard are issued will be sufficient cause for revocation of the identification card and corresponding windshield placard and the same may be forfeited or revoked accordingly, and in the absence of a forfeiture or revocation, the identification card and corresponding windshield placard are valid indefinitely.

The windshield placard shall be displayed on the vehicle when the vehicle is used to transport handicapped nursing home residents. A vehicle displaying this windshield placard is authorized to park in a space appropriately marked for vehicles for the physically handicapped only when delivering or receiving handicapped nursing home residents from one location to another. The vehicle is not permitted to park in designated handicapped parking spaces when it is not transporting handicapped nursing home residents.

The fee for the issuance of the identification card and corresponding windshield placard issued pursuant to this section is \$4.00 and is payable to the Director of the Division of Motor Vehicles.

7. This act shall take effect on the first day of the seventh month following enactment.

Approved November 29, 1989.

CHAPTER 202

AN ACT concerning reflectorized motor vehicle registration plates, amending R.S.39:3-33 and supplementing chapter 3 of Title 39 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.39:3-33 is amended to read as follows:

Markers; requirements concerning; display of fictitious or wrong numbers, etc.; punishment.

39:3-33. The owner of an automobile which is driven on the public highways of this State shall display not less than 12 inches nor more than 48 inches from the ground in a horizontal position, and in such a way as not to swing, an identification mark or marks to be furnished by the division; provided, that if two marks are issued they shall be displayed on the front and rear of the vehicle; and provided, further, that if only one mark is issued it shall be displayed on the rear of the vehicle; and provided, further, that the rear identification mark may be displayed more than 48 inches from the ground on tank trucks, trailers and other commercial vehicles carrying inflammable liquids and on sanitation vehicles which are used to collect, transport and dispose of garbage, solid wastes and refuse. Motorcycles shall

also display an identification mark or marks; provided, that if two marks are issued they shall be displayed on the front and rear of the motorcycle; and provided, further, that if only one mark is issued it shall be displayed on the rear of the motorcycle.

The identification mark or marks shall contain the number of the registration certificate of the vehicle and shall be of such design and material as prescribed pursuant to section 2 of P.L.1989, c.202 (C.39:3-33.9). All identification marks shall be kept clear and distinct and free from grease, dust or other blurring matter, so as to be plainly visible at all times of the day and night.

No person shall drive a motor vehicle which has a license plate frame or identification marker holder that conceals or otherwise obscures any part of any marking imprinted upon the vehicle's registration plate or any part of any insert which the director, as herein-after provided, issues to be inserted in and attached to that registration plate or marker.

The director is authorized and empowered to issue registration plate inserts, to be inserted in and attached to the registration plates or markers described herein. They may be issued in the place of new registration plates or markers; and inscribed thereon, in numerals, shall be the year in which registration of the vehicle has been granted.

No person shall drive a motor vehicle the owner of which has not complied with the provisions of this subtitle concerning the proper registration and identification thereof, nor drive a motor vehicle which displays a fictitious number, or a number other than that designated for the motor vehicle in its registration certificate. During the period of time between the application for motor vehicle registration and the receipt of registration plates from the division, no person shall affix a plate or marker for the purpose of advertisement in the position on a motor vehicle normally reserved for the display of the registration plates required by this section if the plate or marker is designed with a combination of letters, numbers, colors, or words to resemble the registration plates required by this section.

A person convicted of displaying a fictitious number, as prohibited herein, shall be subject to a fine not exceeding \$500.00 or imprisonment in the county jail for not more than 60 days.

A person violating any other provision of this section shall be subject to a fine not exceeding \$100.00. In default of the payment thereof, there shall be imposed an imprisonment in the county jail

for a period not exceeding 10 days. A person convicted of a second offense of the same violation may be fined in double the amount herein prescribed for the first offense and may, in default of the payment thereof, be punished by imprisonment in the county jail for a period not exceeding 20 days. These penalties shall not apply to the display of a fictitious number.

C.39:3-33.9 Issuance of reflectorized motor vehicle registration plates.

2. a. The Director of the Division of Motor Vehicles shall implement a phase-in program for the issuance of reflectorized motor vehicle registration plates in this State, the planning of which shall begin immediately for the issuance which shall begin on the first day of the seventh month following the report of the Reflectorized License Plate Selection Commission established pursuant to this section of this 1989 amendatory and supplementary act, P.L.1989, c.202 (C.39:3-33.9), except that the division shall first use any existing supplies of nonreflectorized plates which it orders prior to the commencement of the issuance. The purpose of the issuance shall be to change the color scheme and style of the registration plates in use prior to the beginning of the issuance in order to provide for greater contrast between the background of the plate and the lettering and to ensure that all plates are fully treated with a reflectorized material designed to increase their nighttime visibility and legibility. The color scheme and style of the new plates shall be selected by the Reflectorized License Plate Selection Commission hereby created. The commission shall consist of five members, three appointed by the Governor, one by the President of the Senate, and one by the Speaker of the General Assembly. The commission shall select the color scheme and design of the new reflectorized license plate after considering the needs of law enforcement and highway safety, aesthetics, cost and the continued ability of the corrections system to manufacture the plate. The commission will first meet within 60 days of the effective date of this act and shall report its choice to the Director of the Division of Motor Vehicles within 180 days of this act becoming effective. The markings on the plates shall be in accordance with specifications prescribed by the director.

For a period of six years commencing on the first day of the seventh month following enactment of this 1989 amendatory and supplementary act, P.L.1989, c.202 (C.39:3-33.9 et al.), the division may charge in addition to an annual motor vehicle registration fee, an additional annual fee not to exceed \$0.40 for the costs of the issuance of reflectorized motor vehicle registration plates in this State.

b. The Director of the Division of Motor Vehicles shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to effectuate the purposes of this act.

c. The director shall submit an annual progress report on the planning and implementation of the reflectorized motor vehicle registration plate phase-in program to the Governor and members of the Legislature with the first report to be submitted one year after enactment of this 1989 amendatory and supplementary act. The annual report submitted after the fourth year of implementation shall contain a recommendation as to the advisability and feasibility of a general recall of all plates of an earlier design that are still in use at the completion of the phase-in program. This report shall also contain the director's recommendation of a funding source for the ongoing costs associated with the continued issuance of reflectorized plates. The last report shall be submitted after the completion of the phase-in program.

3. This act shall take effect immediately.

Approved December 8, 1989.

CHAPTER 203

AN ACT prohibiting the distribution and sale of food processed utilizing radiation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.24:5-8 is amended to read as follows:

General food adulterations.

24:5-8. For the purposes of this subtitle food shall be deemed adulterated:

A. (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(2) If it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of regulations

promulgated by the Department of Health limiting the quantity therein or thereon to such extent as the Department of Health of the State of New Jersey finds necessary for the protection of the public health; or

(3) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(4) If it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or

(5) If it is in whole or in part the product of an animal which has not been inspected, and the meat of such animal passed as fit for food:

(a) By an official federal inspector; or

(b) By such officer or person as shall be qualified for such purpose in accordance with, and in such manner as shall be prescribed by, regulations adopted by the State department, if such inspection is required by such regulations, or if it is in whole or in part the product of an animal which has died otherwise than by slaughter; or

(6) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(7) If, during the course of its processing, it has been exposed to, or treated with, ionized radiation, except that this paragraph shall not apply to any spice so exposed or treated.

B. (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

(2) If any substance has been substituted wholly or in part therefor; or

(3) If damage or inferiority has been concealed in any manner; or

(4) If any substance has been added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

C. If it falls below the standard of purity, quality or strength which it purports or is represented to possess.

D. If it bears or contains a coal-tar color other than one from a batch that has been certified under the federal act.

2. This act shall take effect immediately and shall expire two years after its enactment.

Approved December 8, 1989.

CHAPTER 204

AN ACT concerning the membership and the retirement of certain members of the Police and Firemen's Retirement System, amending and supplementing P.L.1944, c.255, amending P.L.1964, c.241 and P.L.1971, c.175, and repealing section 3 of P.L.1979, c.109 and section 3 of P.L.1982, c.198.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read as follows:

C.43:16A-1 Definitions.

1. As used in this act:

(1) "Retirement system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) (a) "Policeman" shall mean a permanent, full-time employee of a law enforcement unit as defined in section 2 of P.L.1961, c.56 (C.52:17B-67) or the State, other than an officer or trooper of the Division of State Police whose position is covered by the State Police Retirement System, whose primary duties include the investigation, apprehension or detention of persons suspected or convicted of violating the criminal laws of the State and who:

(i) is authorized to carry a firearm while engaged in the actual performance of his official duties;

(ii) has police powers;

(iii) is required to complete successfully the training requirements prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable training requirements as determined by the board of trustees; and

(iv) is subject to the physical and mental fitness requirements applicable to the position of municipal police officer established by

an agency authorized to establish these requirements on a Statewide basis, or comparable physical and mental fitness requirements as determined by the board of trustees.

The term shall also include an administrative or supervisory employee of a law enforcement unit or the State whose duties include general or direct supervision of employees engaged in investigation, apprehension or detention activities or training responsibility for these employees and a requirement for engagement in investigation, apprehension or detention activities if necessary, and who is authorized to carry a firearm while in the actual performance of his official duties and has police powers.

(b) "Fireman" shall mean a permanent, full-time employee of a firefighting unit whose primary duties include the control and extinguishment of fires and who is subject to the training and physical and mental fitness requirements applicable to the position of municipal firefighter established by an agency authorized to establish these requirements on a Statewide basis, or comparable training and physical and mental fitness requirements as determined by the board of trustees. The term shall also include an administrative or supervisory employee of a firefighting unit whose duties include general or direct supervision of employees engaged in fire control and extinguishment activities or training responsibility for these employees and a requirement for engagement in fire control and extinguishment activities if necessary. As used in this paragraph, "firefighting unit" shall mean a municipal fire department, a fire district, or an agency of a county or the State which is responsible for control and extinguishment of fires.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system pursuant to this amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the three years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables rec-

ommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child (a) under the age of 18, or (b) 18 years of age or older and enrolled in a secondary school, or (c) under the age of 24 and enrolled in a degree program in an institution of higher education for at least 12 credit hours in each semester, provided that the member died in active service as a result of an accident met in the actual performance of duty at some definite time and place, and the death was not the result of the member's willful misconduct, or (d) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married at least two years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member or retirant in the 12-month period immediately preceding the member's or retirant's death or the accident which was the direct

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cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member or retirant. In the event of the payment of an accidental death benefit, the two-year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married at least two years before the date of his death and to whom he continued to be married until the date of his death and who has not remarried. In the event of the payment of an accidental death benefit, the two-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

(28) "Final compensation" means the compensation received by the member in the last 12 months of creditable service preceding his retirement.

2. Section 6 of P.L.1944, c.255 (C.43:16A-6) is amended to read as follows:

C.43:16A-6 Members who have had five years of service; allowance; death benefits.

6. (1) Upon the written application by a member in service, by one acting in his behalf or by his employer, any member, under 55 years of age, who has had five or more years of creditable service may be retired on an ordinary disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the department which his employer is willing to assign to him and that such incapacity is likely to be permanent and to such an extent that he should be retired.

(2) Upon retirement for ordinary disability, a member shall receive an ordinary disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $1\frac{1}{2}$ % of average final compensation multiplied by his number of years of creditable service but in no event shall the total allowance be less than 40% of the member's average final compensation.

(3) Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to $3\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained 55 years of age the amount payable shall equal $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times such compensation.

3. Section 7 of P.L.1944, c.255 (C.43:16A-7) is amended to read as follows:

C.43:16A-7 Retirement for accidental disability; allowance; death benefits.

7. (1) Upon the written application by a member in service, by one acting in his behalf or by his employer any member may be retired on an accidental disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that the member is permanently and totally disabled as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties and that such disability was not the result of the member's willful negligence and that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the department which his employer is willing to assign to him. The application to accomplish such retirement must be filed within five years of the original traumatic event, but the board of trustees may consider an application filed after the five-year period if it can be factually demonstrated to the satisfaction of the board of trustees that the disability is due to the accident and the filing was not accomplished within the five-year period due to a delayed mani-

festation of the disability or to other circumstances beyond the control of the member.

(2) Upon retirement for accidental disability, a member shall receive an accidental disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of $\frac{2}{3}$ of the member's actual annual compensation for which contributions were being made at the time of the occurrence of the accident.

(3) Upon receipt of proper proofs of the death of a member who has retired on accidental disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to $3\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained 55 years of age the amount payable shall equal $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times such compensation.

(4) Permanent and total disability resulting from a cardiovascular, pulmonary or musculo-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

4. Section 16 of P.L.1964, c.241 (C.43:16A-11.1) is amended to read as follows:

C.43:16A-11.1 Special retirement; resignation with 25 years of creditable service; allowance; death benefit.

16. Should a member resign after having established 25 years of creditable service, he may elect "special retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in section 11, a retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions, and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 65% of his final compensation, plus 1% of his final compensation multiplied by the

number of years of creditable service over 25 but not over 30; provided, however, that any member who has earned, prior to July 1, 1979, more than 30 years of creditable service, shall receive an additional 1% of his final compensation for each year of his creditable service over 30.

The board of trustees shall retire him at the time specified or at such other time within one month after the date so specified as the board finds advisable.

Upon the receipt of proper proofs of the death of such a retired member, there shall be paid to his beneficiary an amount equal to one-half of the final compensation received by the member.

5. Section 15 of P.L.1944, c.255 (C.43:16A-15) is amended to read as follows:

C.43:16A-15 Contributions; expenses of administration.

15. (1) The contributions required for the support of the retirement system shall be made by members and their employers.

(2) The uniform percentage contribution rate for members shall be 8.5% of compensation.

(3) (Deleted by amendment, P.L.1989, c.204.)

(4) Each employer shall make contributions equal to the percentage of compensation of members in its employ as certified by the board of trustees based on annual actuarial valuations. The percentage rate of contribution payable by employers shall be determined initially on the basis of the entry age normal cost method. This shall be known as the "normal contribution."

(5) (Deleted by amendment, P.L.1989, c.204.)

(6) The percentage rates of contribution payable by employers pursuant to subsection (4) of this section shall be subject to adjustment from time to time by the board of trustees with the advice of the actuary on the basis of annual actuarial valuations and experience investigations as provided under section 13, so that the value of future contributions of members and employers, when taken with present assets, shall be equal to the value of prospective benefit payments.

(7) Each employer shall cause to be deducted from the salary of each member the percentage of earnable compensation prescribed in subsection (2) of this section. To facilitate the making of deductions, the retirement system may modify the amount of deduction required

of any member by an amount not to exceed 1/10 of 1% of the compensation upon which the deduction is based.

(8) The deductions provided for herein shall be made notwithstanding that the minimum salary provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The chief fiscal officer of each employer shall certify to the retirement system in such manner as the retirement system may prescribe, the amounts deducted; and when deducted shall be paid into said annuity savings fund, and shall be credited to the individual account of the member from whose salary said deduction was made.

(9) Upon the basis of such tables recommended by the actuary as the board adopts and regular interest, the actuary shall compute the amount of the unfunded liability as of June 30, 1988 which has accrued on the basis of service rendered prior to July 1, 1988 by all members, which amount shall remain frozen and shall be amortized over a period not to exceed 40 years as determined by the State Treasurer. Using the total amount of this unfunded accrued liability, the actuary shall compute an increasing amount of annual payment, which is estimated to remain a level percentage of prospective total compensation and which, if paid in each succeeding fiscal year commencing with July 1, 1989, for the period determined by the State Treasurer, will provide for this liability. This shall be known as the "accrued liability contribution."

The normal and accrued liability contributions as certified by the retirement system shall be included in the budget of the employer and levied and collected in the same manner as any other taxes are levied and collected for the payment of the salaries of members.

(10) The treasurer or corresponding officer of the employer shall pay on or before March 31 in each year to the State Treasurer the amount so certified as payable by the employer, and shall pay monthly to the State Treasurer the amount of the deductions from the salary of the members in the employ of the employer, and the State Treasurer shall credit such amount to the appropriate fund or funds of the retirement system.

If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by this act, interest at the rate of 10% per annum shall commence to run against the unpaid balance thereof on the first day after such 30th day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 10% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such 15th day.

(11) The expenses of administration of the retirement system shall be paid by the State of New Jersey. Each employer shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be computed as the number of members under the jurisdiction of such employer bears to the total number of members in the system. The pro rata share of the cost of administrative expense shall be included with the certification by the retirement system of the employer's contribution to the system.

(12) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pension or other benefits on account of the employees or beneficiaries of any employer participating in the retirement system, for which reserves have not been previously created from funds, contributed by such employer or its employees for such benefits.

(13) The Legislature shall annually appropriate and the State Treasurer shall pay into the pension accumulation fund of the retirement system an amount equal to 1.8% of the compensation of the members of the system upon which the normal contribution rate is based to fund the benefits provided by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.1979, c.109.

6. Section 21 of P.L.1971, c.175 (C.43:16A-15.4) is amended to read as follows:

C.43:16A-15.4 Accrued liability contribution of employer; payment.

21. The accrued liability contribution of any employer adopting the retirement system after July 1, 1988 for the purpose of providing prior service credit, shall be payable by the employer to the pension accumulation fund over the period selected by the employer, provided that the period may not exceed 40 years following the initial valuation of such liability by the actuary of the retirement system.

C.43:16A-15.6 Pension adjustment benefits; funding.

7. Pension adjustment benefits for members and beneficiaries of the Police and Firemen's Retirement System of New Jersey as provided by P.L.1969, c.169 (C.43:3B-1 et seq.) shall be paid by the retirement system and shall be funded as employer obligations in a similar manner to that provided for the funding of employer obligations for the retirement benefits provided by the retirement system.

C.43:3B-4.2 Benefits under "Pension Adjustment Act"; funding.

8. Notwithstanding the provisions of the "Pension Adjustment Act," P.L.1969, c.169 (C.43:3B-1 et seq.), pension adjustment benefits provided for under the act for members and beneficiaries of the Police and Firemen's Retirement System of New Jersey shall be paid by the retirement system and shall be funded as employer obligations in the manner prescribed for the funding of pension adjustment benefits by the retirement system by this amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

C.43:16A-1.2 Review of positions of all members; eligibility, enrollment.

9. a. The Director of the Division of Pensions shall review the positions of all members of the retirement system on the effective date of this amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.), and shall recommend to the board of trustees whether or not a position shall continue to be covered under the retirement system based upon the definitions of "policeman" and "fireman" in this act. The board shall determine which positions shall continue to be covered under the retirement system. A member whose position was covered prior to the effective date of this amendatory and supplementary act shall continue to be eligible for membership in the retirement system while in the same position. Any person appointed after the effective date of this amendatory and supplementary act to a position which is removed from coverage under the retirement system is not eligible for membership.

b. Upon the recommendation of the Director of the Division of Pensions, the board of trustees shall determine if a position of a law enforcement unit or firefighting unit or the State in existence on the effective date of this amendatory and supplementary act but not covered by the retirement system or established after the effective date of this amendatory and supplementary act is covered by the retirement system.

If the board determines that a position is covered by the retirement system, any person in the position is eligible to become a member of the retirement system. If the person is a member of another State-

administered or county or municipal retirement system, the person may transfer membership in the other retirement system to the Police and Firemen's Retirement System in accordance with the provisions of P.L.1973, c.156 (C.43:16A-62 et seq.). Any time period under P.L.1973, c.156 calculated from the effective date of that act shall be calculated from the effective date of this amendatory and supplementary act for the purposes of this act.

A person employed in a position on or after the effective date of a determination by the board of trustees that the position is covered by the retirement system is required to enroll in the retirement system as a condition of employment, provided the person is otherwise eligible for membership by meeting the appointment, age and health requirements prescribed for all members. A person employed in a position covered by the retirement system and eligible for membership in the retirement system is ineligible for membership in any other State-administered or county or municipal retirement system.

c. Nothing in this amendatory and supplementary act shall be construed as authorizing:

(1) the transfer to or enrollment in the retirement system of any person who was ineligible for membership in or elected not to transfer to or enroll in the system prior to the effective date of this amendatory and supplementary act, unless the person is employed on or after the effective date in a new position which is not the same or related to the position in which the person was determined to be ineligible for membership in or elected not to transfer to or enroll in the system; or

(2) the participation in the retirement system of an employee of any county, municipality or political subdivision thereof which has not adopted P.L.1944, c.255 (C.43:16A-1 et seq.).

C.43:16A-1.3 Report on titles covered, number of members affected, actuarial status.

10. On or before the 90th day after enactment of this amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.), the Director of the Division of Pensions shall report in writing to the Governor, the Senate Revenue, Finance and Appropriations Committee, the Senate State Government, Federal and Interstate Relations and Veterans Affairs Committee, the Assembly Appropriations Committee, and the Assembly State Government Committee, or their successors, concerning the titles that will and will not continue to be covered by the retirement system and the number of people that will be affected and are projected to be affected thereby as a result

of this act. The director shall provide reports to the Governor and the committees annually thereafter which shall include information concerning, but not limited to, the titles covered by the retirement system, any changes in title coverage, the number of members affected by any changes, and the actuarial status of the retirement system.

Repealer.

11. Section 3 of P.L.1979, c.109 (C.43:16A-15.5) and section 3 of P.L.1982, c.198 (C.43:16A-11.1a) are repealed.

12. This act shall take effect immediately, except that the amendment to subsection (2) of section 15 of P.L.1944, c.255 (C.43:16A-15) in section 5 of this amendatory and supplementary act shall take effect on the first day of the calendar quarter following the date of enactment by at least two months.

Approved December 20, 1989.

CHAPTER 205

AN ACT providing for the transfer of active members of the Prison Officers' Pension Fund to the Police and Firemen's Retirement System.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. Notwithstanding the provisions of any law, rule or regulations to the contrary, every active member of the Prison Officers' Pension Fund may, within 180 days of the effective date of this act, transfer to the Police and Firemen's Retirement System established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.). A member who elects to transfer shall not be permitted to continue membership or retain rights and benefits under the Prison Officers' Pension Fund.

b. Within 180 days following the effective date of this act, the Prison Officers' Pension Fund shall remit to the Police and Firemen's Retirement System all accumulated deductions standing to the credit of each transferred employee as a former member of the system and the pro rata part of the reserve fund constituting the employer's account.

c. Employees who transfer pursuant to this act shall be members of the Police and Firemen's Retirement System and deductions from their salaries and contributions on their behalf shall thereafter be made as required by P.L.1944, c.255 (C.43:16A-1 et seq.). Transferred employees shall have the same rights, benefits and obligations as all other members of the system. Any credit for public service which has been established in the Prison Officers' Pension Fund by the transferred employees shall be established in the Police and Firemen's Retirement System.

d. All outstanding obligations such as loans, purchases and other arrearages shall be satisfied by a transferred employee as previously scheduled for payment to the Prison Officers' Pension Fund.

e. Any employee who transfers to the Police and Firemen's Retirement System pursuant to this act who was at the time of transfer covered by the group life insurance benefits provisions of the Prison Officers' Pension Fund shall be eligible to receive any of the group life insurance benefits provided by the Police and Firemen's Retirement System.

f. The actuary of the Police and Firemen's Retirement System shall calculate any remaining liability on behalf of employees becoming members of the system pursuant to this act after taking into account the value of all moneys remitted by the Prison Officers' Pension Fund as provided in subsection b. of this section. If the value of the moneys so remitted is less than the total value which is required by the Police and Firemen's Retirement System to establish full credit for the public service of the transferred member, the remaining liability shall be an amount equal to the difference between these two values. Upon certification of the amount by the actuary, the remaining liability shall be paid through contributions made by the employer of the transferred employees. Such payments shall be made according to a schedule and in a manner as determined by the board of trustees of the Police and Firemen's Retirement System.

2. Nothing contained in this act shall affect the benefits paid to any former member of the Prison Officers' Pension Fund or to the widow, widower, dependent child or parent of a former member who is receiving a pension on the effective date of this act.

3. This act shall take effect immediately and shall expire 180 days after the date of enactment.

Approved December 20, 1989.

CHAPTER 206

A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1989 and regulating the disbursement thereof," approved June 30, 1988 (P.L.1988, c.47).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. In addition to the amounts appropriated under P.L.1988, c.47, there is appropriated out of the Casino Revenue Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
46 DEPARTMENT OF HEALTH
20 Physical and Mental Health
21 Health Services

02-4220 Local and Community	
Health Services	\$82,700
Grants:	
Medicare/Long-term care	
information system	(\$82,700)

2. This act shall take effect immediately.

Approved December 20, 1989.

CHAPTER 207

AN ACT concerning tax abatements for certain residential property and supplementing Title 54 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.54:4-3.139 Findings, determinations.

1. The Legislature finds and determines that:

a. With the enactment of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), the State has endeavored to induce private business concerns to locate or expand operations in certain urban areas;

b. Similar encouragement should be provided for the construction of new single-family housing units, needed to provide housing convenient to this business activity and to stimulate neighborhood revitalization;

c. The deterioration of once-flourishing residential neighborhoods is a problem of enormous magnitude for the State of New Jersey, the solution to which has been, and should continue to be, an overriding public concern of federal, State and local governments;

d. The deterioration of those residential neighborhoods is in large measure the result of the unwillingness of the owners of, and investors in, residential properties to properly maintain and improve their properties, arising out of fear of the resulting increase in property taxes;

e. In many of those neighborhoods, particularly in urban centers, the deterioration of housing stock has resulted in vacant lots, abandoned buildings and poorly maintained properties, and the concomitant negative psychological and financial impact upon owners of, and investors in those residential neighborhoods;

f. In addition, the heavy tax burdens in many urban municipalities inhibit the development of new housing in those municipalities, notwithstanding the fact that those municipalities contain ample vacant land for the construction of new housing and numerous unused or underused buildings which may be converted to housing;

g. Further, while the rapidly growing demand for housing has begun to encourage some private investment in urban residential construction, the substantial property tax burdens in many of our urban areas have discouraged many prospective purchasers of newly constructed housing units in those municipalities;

h. These prospective purchasers may be further discouraged by the severe intra-municipal assessment discrepancies in certain urban areas, in which older residential properties remain assessed at a fraction of market value while newly constructed residential properties are assessed at full market values and the owners thereof pay substantially higher taxes than the owners of the older properties;

i. Property tax abatements for the construction of certain residential structures, and property tax abatements for the conversion of other structures to residential use, will constitute a substantial incentive for owners and investors to improve vacant land and underutilized structures;

j. The provision of property tax abatements for new residential structures in certain urban areas will assure the prospective purchasers of those properties that their property tax assessments will be no greater than the assessments of older homes, thus removing the fear of overly high tax burdens;

k. In certain urban areas, the encouragement of residential construction and conversion can be expected to make available older, more affordable housing stock, thus encouraging both the provision of affordable housing and general urban redevelopment, while in other urban areas, any new residential construction can be expected to contribute to the growth and neighborhood stability needed in conjunction with incentives for the rebirth of the business community;

l. Article VIII, Section I, paragraph 6 of the Constitution of this State authorizes the Legislature to enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation for limited periods of time not in excess of five years on buildings and structures in areas declared in need of rehabilitation in accordance with statutory criteria; and

m. It is, therefore, a compelling public purpose to provide qualified municipalities with the means of providing the appropriate abatements.

C.54:4-3.140 Definitions.

2. As used in this act:

a. "Abatement" means an exemption from real property taxes provided for the purposes of encouraging residential construction, conversion, improvement and redevelopment pursuant to this act;

b. "Assessor" means the municipal tax assessor appointed pursuant to the provisions of chapter 9 of Title 40A of the New Jersey Statutes;

c. "Completed," with respect to a parcel of qualified property, or the "completion" of that property, means substantially ready for the use for which it is intended and its occupancy as a principal residence;

d. "Condominium" means the form of real property ownership provided for under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.);

e. "Cooperative" means a housing corporation or association, wherein the holder of a share or membership interest thereof is entitled to possess and occupy for dwelling purposes a house, apartment, or other unit of housing owned by the corporation or association, or to purchase a unit of housing constructed or erected by the corporation or association;

f. "Cost," when used with respect to construction, or to an improvement or conversion alteration, means only the cost or fair market value of labor and materials used in constructing or improving qualified residential property, or in converting another building or structure to qualified residential property, including any architectural, engineering, and contractors' fees associated with the construction, improvement or conversion, as the owner of the property shall cause to be certified to the governing body by an independent and qualified architect, following the completion of the project;

g. "Horizontal property regime" means the form of real property ownership provided for under the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

h. "Qualified municipality" means a municipality in which an urban enterprise zone or part of an urban enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), and shall include the entire area within the corporate boundaries of that municipality, whether or not that area is included within an urban enterprise zone; and

i. "Qualified residential property" means any building used or to be used or held for use as a home or residence, including accessory buildings located on the same premises and including condominiums, cooperatives and horizontal property regimes. No building shall be considered a qualified residential property if the certificate of occupancy for the construction, conversion, rehabilitation or renovation was issued on or before the date falling 30 months prior to the effective date of this act.

C.54:4-3.141 Determination of need of rehabilitation; conversion or building of residential properties by municipal governing body.

3. The governing body of a qualified municipality may, by ordinance, determine that one or more areas within the municipality are in need of rehabilitation, and that one or more buildings or structures in any such area could be advantageously converted to qualified residential property or that vacant land in any such area could be

advantageously used for the construction of qualified residential property. Any such determination shall be made in keeping with regulations which shall be promulgated by the Commissioner of Community Affairs pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which shall take into consideration the following: existence of blighted areas in the municipality; deterioration of housing stock; age of housing stock; supply of and demand for housing in the municipality; and arrearage in real property taxes due on residential properties.

C.54:4-3.142 Abatements of real property taxes for qualified residential property; application, approval, requirement.

4. The governing body of a qualified municipality which has complied with the provisions of section 3 of this act may, by ordinance, provide for abatements of real property taxes for qualified residential property. The governing body shall include the following items in its enabling ordinance and shall select among the following options where appropriate:

- a. A property tax abatement term of five years;
- b. The application procedure for an abatement authorized under this act;
- c. The method of computing payments in lieu of real property taxes pursuant to subsection b. or subsection c. of section 7 of this act;
- d. An approval method for abatement applications by the assessor or by ordinance on a per applicant basis; and
- e. A requirement that: (1) to be eligible for an abatement, a dwelling house, condominium unit or unit in a horizontal property regime shall be occupied by the owner thereof, and that a cooperative shall be occupied by residential shareholders therein; or (2) in a case in which paragraph (1) of this subsection is not satisfied, the annual payment in lieu of taxes on the unit or dwelling house shall be increased by 1% above the amount otherwise chargeable under section 7 of this act; and that, in the case of a cooperative, the annual payment in lieu of taxes shall be the amount chargeable under section 7 of this act plus an amount determined by multiplying 1% of the amount chargeable under section 7 of this act times the percentage of units not occupied by residential shareholders.

In the case of an abatement for the conversion of a building or structure to qualified residential property, the building or structure

so converted may include, but need not be limited to, commercial or industrial buildings or structures, or underutilized school buildings.

C.54:4-3.143 Tax abatements for purchaser of residential property in urban redevelopment project.

5. When an urban redevelopment project, approved pursuant to section 19 of P.L.1961, c.40 (C.40:55C-58) includes the construction of qualified residential property, and the project is located in a qualified municipality which has adopted the provisions of this act, the urban renewal corporation or association carrying out the project may, upon completion of that qualified residential property, make application for tax abatements under this act on behalf of prospective purchasers of dwelling units whether the units be owner occupied or investor owned.

C.54:4-3.144 Application procedure for tax abatement.

6. a. No abatement shall be granted pursuant to this act except upon written application filed with the assessor of the taxing district wherein the improvement or conversion alteration is made and approved by the assessor or by ordinance, as required by the enabling ordinance. Every application shall be on a form prescribed by the Director of the Division of Taxation, in the Department of the Treasury, and provided for the use of claimants by the governing body of the municipality constituting the taxing district, and shall be filed with the assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement or conversion alteration or the effective date of this act, whichever is later. Every application for an abatement which is filed within the time specified may be approved and allowed by the assessor to the degree that the application is consistent with the provisions of the enabling ordinance, provided that the property for which the application is made constitutes qualified residential property pursuant to the provisions of this act. An abatement that is granted shall take effect upon the issuance of a certificate of occupancy to the owner and it shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of the termination date of the abatement.

b. The added assessment provisions of section 3 of P.L.1941, c.397 (C.54:4-63.3) and the omitted assessment provisions of section 9 of P.L.1947, c.413 (C.54:4-63.20) and section 1 of P.L.1968, c.184 (C.54:4-63.33) shall not be applicable to any property for which the owner-occupant has been granted a tax abatement under this act.

C.54:4-3.145 Approved abatement, amount payable to municipality, schedule of payments.

7. a. Each approved abatement shall be evidenced by a financial agreement between the qualified municipality and the applicant. The agreement shall be prepared by the applicant and shall contain the representations that are required by the enabling ordinance. The agreement shall provide for the applicant to annually pay to the municipality an amount in lieu of real property taxes, to be computed according to either subsection b. or c. of this section, as provided for in the enabling ordinance.

b. Payments in lieu of taxes may be computed as two percent of the cost of the improvements or conversion alterations, as appropriate; or

c. Payments in lieu of taxes may be computed as a portion of the real property taxes otherwise due, according to the following schedule:

(1) In the first tax year following completion, no payment in lieu of taxes otherwise due;

(2) In the second tax year following completion, an amount not less than 20% of taxes otherwise due;

(3) In the third tax year following completion, an amount not less than 40% of taxes otherwise due;

(4) In the fourth tax year following completion, an amount not less than 60% of taxes otherwise due;

(5) In the fifth tax year following completion, an amount not less than 80% of taxes otherwise due;

(6) In the sixth and all subsequent tax years following completion, 100% of the taxes otherwise due.

d. For the purposes of this section, the amount of "taxes otherwise due" shall be determined by including the appropriate percentage of the assessed valuation of the abated structure, improvement or conversion alteration, as the case may be, on the assessment list of the municipality as taxable property, and levying taxes thereon in the same manner as other taxes are levied pursuant to chapter 4 of Title 54 of the Revised Statutes; provided, however, that no value for a property subject to the provisions of this act shall be included in the calculation of the "net valuation on which county taxes are

apportioned" until the sixth, eleventh or sixteenth year, as appropriate.

C.54:4-3.146 Annual administration fee payable by owner to municipality.

8. In addition to the annual payment required pursuant to section 7 of this act, the enabling ordinance may require, as part of the financial agreement, that the owner pay an annual administration fee to the qualified municipality, which fee shall not exceed one percent of the payment provided for herein.

C.54:4-3.147 Payments to be made quarterly, failure to pay; penalty.

9. The payments required pursuant to sections 7 and 8 of this act shall be made in quarterly installments according to the same schedule as real property taxes are due and payable. Failure to make these payments shall result in the termination of the abatement. In addition to the remedy set forth herein, the requirements imposed pursuant to section 7 of this act shall be enforced in the same manner as is provided for real property taxes pursuant to Title 54 of the Revised Statutes.

C.54:4-3.148 Liability of owner for real property taxes on land.

10. In addition to the payments required in lieu of taxes pursuant to section 7 of this act, the owner of a parcel of qualified property granted an abatement pursuant to this act shall be liable for all real property taxes assessed and levied against the land on which the qualified residential property is situated.

C.54:4-3.149 No abatement granted for properties on which taxes are delinquent.

11. No abatement shall be granted pursuant to this act with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

12. This act shall take effect immediately, and shall apply to taxes assessed and levied for each tax year beginning January 1 next following enactment.

Approved December 27, 1989.

CHAPTER 208

AN ACT to amend the "Municipal Land Use Law," approved January 14, 1976 (P.L.1975, c.291).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 29 of P.L.1975, c.291 (C.40:55D-38) is amended to read as follows:

C.40:55D-38 Contents of ordinance.

29. Contents of ordinance. An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall include the following:

a. Provisions, not inconsistent with other provisions of this act, for submission and processing of applications for development, including standards for preliminary and final approval and provisions for processing of final approval by stages or sections of development;

b. Provisions ensuring:

(1) Consistency of the layout or arrangement of the subdivision or land development with the requirements of the zoning ordinance;

(2) Streets in the subdivision or land development of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the official map, if any, and the circulation element of the master plan, if any, and so oriented as to permit, consistent with the reasonable utilization of land, the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within the right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width, or already has been shown on the master plan at the greater width, or already has been shown in greater width on the official map;

(3) Adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants;

(4) Suitable size, shape and location for any area reserved for public use pursuant to section 32 of this act;

(5) Reservation pursuant to section 31 of this act of any open space to be set aside for use and benefit of the residents of planned development, resulting from the application of standards of density or intensity of land use, contained in the zoning ordinance, pursuant to subsection 52c. of this act;

(6) Regulation of land designated as subject to flooding, pursuant to subsection 52e., to avoid danger to life or property;

(7) Protection and conservation of soil from erosion by wind or water or from excavation or grading;

(8) Conformity with standards promulgated by the Commissioner of Transportation, pursuant to the "Air Safety and Hazardous Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), for any airport hazard areas delineated under that act;

(9) Conformity with a municipal recycling ordinance required pursuant to section 6 of P.L.1987, c.102 (C.13:1E-99.16);

(10) Conformity with the State highway access management code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Management Act," P.L.1989, c.32 (C.27:7-91), with respect to any State highways within the municipality;

(11) Conformity with any access management code adopted by the county under R.S.27:16-1, with respect to any county roads within the municipality;

(12) Conformity with any municipal access management code adopted under R.S.40:67-1, with respect to municipal streets; and

(13) Protection of potable water supply reservoirs from pollution or other degradation of water quality resulting from the development or other uses of surrounding land areas, which provisions shall be in accordance with any siting, performance, or other standards or guidelines adopted therefor by the Department of Environmental Protection.

c. Provisions governing the standards for grading, improvement and construction of streets or drives and for any required walkways, curbs, gutters, streetlights, shade trees, fire hydrants and water, and drainage and sewerage facilities and other improvements as shall be found necessary, and provisions ensuring that such facilities shall be completed either prior to or subsequent to final approval of the

subdivision or site plan by allowing the posting of performance bonds by the developer;

d. Provisions ensuring that when a municipal zoning ordinance is in effect, a subdivision or site plan shall conform to the applicable provisions of the zoning ordinance, and where there is no zoning ordinance, appropriate standards shall be specified in an ordinance pursuant to this article; and

e. Provisions ensuring performance in substantial accordance with the final development plan; provided that the planning board may permit a deviation from the final plan, if caused by change of conditions beyond the control of the developer since the date of final approval, and the deviation would not substantially alter the character of the development or substantially impair the intent and purpose of the master plan and zoning ordinance.

2. This act shall take effect immediately, but shall remain inoperative until the Department of Environmental Protection has adopted the required standards and guidelines, and shall not apply to any subdivision or site plan application that has received final approval as of that date.

Approved December 29, 1989.

CHAPTER 209

AN ACT concerning winery licenses and amending various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.33:1-10 is amended to read as follows:

Class A licenses; subdivisions; fees.

33:1-10. Plenary brewery license. 1a. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$8,500.00.

Limited brewery license. 1b. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 300,000 barrels of 31 fluid gallons capacity per year and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: to so brew not more than 50,000 barrels of 31 fluid gallons capacity per annum, \$1,000.00; to so brew not more than 100,000 barrels of 31 fluid gallons capacity per annum, \$2,000.00; to so brew not more than 200,000 barrels of 31 fluid gallons capacity per annum, \$4,000.00; to so brew not more than 300,000 barrels of 31 fluid gallons capacity per annum, \$6,000.00.

Plenary winery license. 2a. Provided that the holder is engaged in growing and cultivating grapes or fruit used in the production of wine on at least three acres on, or adjacent to, the winery premises, the holder of this license shall be entitled, subject to rules and regulations, to produce any fermented wines, and to blend, fortify and treat wines, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse, and to sell his products at retail to consumers on the licensed premises of the winery for consumption on or off the premises and to offer samples for sampling purposes only. The fee for this license shall be \$750.00. The holder of this license shall also have the right to sell such wine at retail in original packages in two salesrooms apart from the winery premises for consumption off the premises and for sampling purposes for consumption on the premises, at a fee of \$200.00 for each salesroom. Additionally, subject to rules and regulations, one salesroom per county may be jointly controlled and operated by at least five plenary or farm winery licensees for the sale of the products produced under the licenses of such licensees for consumption off the premises and for consumption on the licensed premises for sampling purposes only, at an additional fee of \$500.00 per county salesroom. Any plenary licensee who has heretofore utilized a privilege to sell his products for consumption on the premises at a salesroom other than the licensed premises of the winery may retain that privilege at the existing location. For the purposes of this subsection, "sampling"

means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

Farm winery license. 2b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any fermented wines and fruit juices in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 50,000 gallons per year and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and to sell at retail to consumers for consumption on or off the licensed premises and to offer samples for sampling purposes only. The license shall be issued only when the winery at which such fermented wines and fruit juices are manufactured is located and constructed upon a tract of land exclusively under the control of the licensee, provided that the licensee is actively engaged in growing and cultivating an area of not less than three acres on or adjacent to the winery premises and on which are growing grape vines or fruit to be processed into wine or fruit juice; and provided, further, that for the first five years of the operation of the winery such fermented wines and fruit juices shall be manufactured from at least 51% grapes or fruit grown in the State and that thereafter they shall be manufactured from grapes or fruit grown in this State at least to the extent required for labeling as "New Jersey Wine" under the applicable federal laws and regulations. The containers of all wine sold to consumers by such licensee shall have affixed a label stating such information as shall be required by the rules and regulations of the Director of the Division of Alcoholic Beverage Control. The fee for this license shall be graduated as follows: to so manufacture between 30,000 and 50,000 gallons per annum, \$300.00; to so manufacture between 2,500 and 30,000 gallons per annum, \$200.00; to so manufacture between 1,000 and 2,500 gallons per annum, \$100.00; to so manufacture less than 1,000 gallons per annum, \$50.00. No farm winery license shall be held by the holder of a plenary winery license or be situated on a premises licensed as a plenary winery.

The holder of this license shall also have the right to sell his products in original packages at retail to consumers in two salesrooms apart from the winery premises for consumption off the premises, and for sampling purposes for consumption on the premises, at a fee of \$200.00 for each salesroom. Additionally, subject to rules and regulations, one salesroom per county may be jointly controlled and

operated by at least five plenary or farm winery licensees for the sale of the products produced under the licenses of such licensees for consumption off the premises and for consumption on the licensed premises for sampling purposes only, at an additional fee of \$500.00 per county salesroom. For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

Unless otherwise indicated, for the purposes of this subsection, with respect to farm winery licenses, "manufacture" means the vinification, aging, storage, blending, clarification, stabilization and bottling of wine or juice from New Jersey fruit to the extent required by this subsection.

Wine blending license. 2c. The holder of this license shall be entitled, subject to rules and regulations, to blend, treat, mix, and bottle fermented wines and fruit juices with non-alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$500.00.

Plenary distillery license. 3a. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any distilled alcoholic beverages and rectify, blend, treat and mix, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$10,000.00.

Limited distillery license. 3b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture and bottle any alcoholic beverages distilled from fruit juices and rectify, blend, treat, mix, compound with wine and add necessary sweetening and flavor to make cordial or liqueur, and to sell and distribute to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution and to warehouse these products. The fee for this license shall be \$3,000.00.

Supplementary limited distillery license. 3c. The holder of this license shall be entitled, subject to rules and regulations, to bottle

and rebottle, in a quantity to be expressed in said license, dependent upon the following fees, alcoholic beverages distilled from fruit juices by such holder pursuant to a prior plenary or limited distillery license, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: to so bottle and rebottle not more than 5,000 wine gallons per annum, \$250.00; to so bottle and rebottle not more than 10,000 wine gallons per annum, \$500.00; to so bottle and rebottle without limit as to amount, \$1,000.00.

Rectifier and blender license. 4. The holder of this license shall be entitled, subject to rules and regulations, to rectify, blend, treat and mix distilled alcoholic beverages, and to fortify, blend, and treat fermented alcoholic beverages, and prepare mixtures of alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$6,000.00.

Bonded warehouse bottling license. 5. The holder of this license shall be entitled, subject to rules and regulations, to bottle alcoholic beverages in bond on behalf of all persons authorized by federal and State law and regulations to withdraw alcoholic beverages from bond. The fee for this license shall be \$500.00. This license shall be issued only to persons holding permits to operate Internal Revenue bonded warehouses pursuant to the laws of the United States.

2. Section 1 of P.L.1982, c.176 (C.33:1-28.1) is amended to read as follows:

C.33:1-28.1 Shipment of wine to purchaser; regulations.

1. Any person, other than a person licensed under the provisions of Title 33 of the Revised Statutes, purchasing wine in person on the licensed premises from a licensee holding a plenary winery license with retail privileges or a licensee holding a farm winery license or ordering wine by mail or telephone may authorize shipment of the wine by a parcel delivery service, approved for the purpose by the director, to any point within the State, provided an invoice or similar document is attached to each package stating the licensee's and purchaser's name and address, and the quantity and type of wine, and provided that a copy of the original invoice shall be available

for inspection by persons authorized to enforce the alcoholic beverage control laws of this State for a period of one year at licensed premises of the winery.

Wine which is ordered by mail or telephone may be shipped by parcel delivery service only if the licensee has a signed authorization by the person placing the order to ship wine upon his order by mail or telephone. The wine shall be shipped as a restricted delivery and may be delivered only to the residence of the person who placed the order.

3. Section 3 of P.L.1982, c.176 (C.33:1-28.3) is amended to read as follows:

C.33:1-28.3 Permit for shipping wine; application, fee.

3. Before wine can be shipped by a parcel delivery service from a licensee holding a plenary winery license with retail privileges or a licensee holding a farm winery license in accordance with the provisions of this act, the licensee shall apply to the director for a permit therefor and pay an annual fee to the director of \$150.00 if a plenary winery licensee or \$50.00 if a farm winery licensee.

4. Section 2 of P.L.1985, c.233 (C.4:10-76) is amended to read as follows:

C.4:10-76 "New Jersey Wine Promotion Account"; establishment, funding.

2. a. There is established in the Department of Agriculture the "New Jersey Wine Promotion Account," hereinafter referred to as the "account." All monies received in this account shall be expended by the Secretary of Agriculture for research and development concerning the viticultural and wine-making processes in the State and for the promotion of New Jersey wine, consistent with the recommendations of the New Jersey Wine Industry Advisory Council created pursuant to section 3 of this 1985 amendatory and supplementary act.

b. The account shall be credited annually, in an appropriation by law, with an amount equal to \$0.20 per gallon on all sales of wines, vermouth and sparkling wines sold by plenary winery and farm winery licensees licensed pursuant to R.S.33:1-10.

c. The account shall also be credited with any monies made available to it from the General Fund or any non-State public or private source.

d. The secretary shall include with the annual budget request for

the department a request for funds sufficient to carry out the purposes and intent of this 1985 amendatory and supplementary act.

5. Section 3 of P.L.1985, c.233 (C.4:10-77) is amended to read as follows:

C.4:10-77 New Jersey Wine Industry Advisory Council; establishment, members, duties.

3. a. There is established in the Department of Agriculture the New Jersey Wine Industry Advisory Council, comprising eight members, three of whom shall be the Secretary of Agriculture, the Commissioner of Commerce, Energy and Economic Development and the Dean of Cook College at Rutgers University, or their designees, who shall serve ex officio and as nonvoting members, and five members of the general public to be appointed by the State Board of Agriculture, two of whom shall be holders of a plenary winery license, two of whom shall be holders of a farm winery license and one of whom shall be a viticulturist. To the maximum extent practicable and feasible, the members appointed from the general public shall be chosen so as to collectively provide wide geographical representation. The members appointed from the general public shall serve for terms of three years and may be reappointed and may serve until a successor has been appointed. Of the public members first appointed, two shall be appointed for terms of three years, two shall be appointed for terms of two years, and one shall be appointed for a term of one year. A vacancy in the membership occurring other than by expiration of a term shall be filled in the same manner as the original appointment, but for the unexpired term only. The members shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available to it, reimburse members for actual expenses necessarily incurred in the discharge of their official duties.

b. The council shall organize as soon as its membership has been appointed and shall select a chairman and vice-chairman from among its members and may select a secretary, who need not be a member of the council. The council shall meet twice annually, and at such other times as may be necessary.

c. It shall be the duty of the council to assess the condition of the wine industry of the State and to advise the Secretary of Agriculture on expenditures from the New Jersey Wine Promotion Account for research, development, and promotion of the New Jersey wine industry. The council shall also review the wine certification made

by the Director of the Division of Taxation pursuant to section 4 of this 1985 amendatory and supplementary act.

d. The council is entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for these purposes.

e. The council shall promulgate rules and regulations subject to the approval of the State Board of Agriculture to effectuate the purposes of P.L.1985, c.233 (C.4:10-76 et al.). The council may employ, prescribe the duties, and fix and pay the compensation of such persons it may deem necessary to carry out the duties of the council within the limits of available appropriations and subject to the approval of the State Board of Agriculture.

6. Section 4 of this act shall take effect on the first day of the calendar year next following enactment and the remainder shall take effect immediately.

Approved December 29, 1989.

CHAPTER 210

AN ACT concerning the registration of motor vehicles and supplementing chapter 3 of Title 39 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.39:3-4f Vehicles registered in foreign country, operation by owner permitted temporarily.

1. A resident owner of any motor vehicle which has been registered in accordance with the laws respecting the registration of motor vehicles in a foreign country may operate the motor vehicle in this State for 20 days after the owner imports the motor vehicle into this State in the same manner and to the same extent as though the motor vehicle was registered in this State, provided the registration number is conspicuously displayed on the motor vehicle.

2. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 211

AN ACT concerning death by auto and amending N.J.S.2C:11-5.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.2C:11-5 is amended to read as follows:

Death by auto.

2C:11-5. Death by auto. a. Criminal homicide constitutes death by auto when it is caused by driving a vehicle recklessly.

b. Death by auto is a crime of the third degree and, notwithstanding the provisions of 2C:43-2, the court may not suspend the imposition of sentence on any defendant convicted under this section, who was operating the vehicle under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit-producing drug or with a blood alcohol concentration of 0.10% or more by weight of alcohol in his blood, and any sentence imposed under this section shall include either a fixed minimum term of 270 days' imprisonment, during which the defendant shall be ineligible for parole, or a requirement that the defendant perform a community related service for a minimum of 270 days.

c. For good cause shown, the court may, in accepting a plea of guilty under this section, order that such plea not be evidential in any civil proceeding.

d. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for manslaughter under the provisions of N.J.S.2C:11-4. If an indictment for manslaughter is brought in a case involving the operation of a motor vehicle, death by auto shall be considered a lesser-included offense.

2. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 212

AN ACT providing for the payment of counsel fees and supplementing Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.2A:34-23a Payment of counsel fees incurred in collection of child support.

1. If a party in any action to enforce and collect child support ordered by a court pursuant to the provisions of N.J.S.2A:34-23 has incurred counsel fees, the court shall require the defaulting party to pay those counsel fees unless the court finds that the default was substantially justified or that other circumstances make an award of counsel fees unjust. The court shall determine the appropriate award for counsel fees and shall consider the financial circumstances of the parties and whether each acted in good faith.

2. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 213

AN ACT authorizing licensed practicing psychologists to certify disability under the "unemployment compensation law" and "Temporary Disability Benefits Law" and amending R.S.43:21-4 and P.L.1948, c.110.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.43:21-4 is amended to read as follows:

Benefit eligibility conditions.

43:21-4. Benefit eligibility conditions. An unemployed individual shall be eligible to receive benefits with respect to any week only if:

(a) The individual has filed a claim at an unemployment insurance claims office and thereafter continues to report at an employment service office or unemployment insurance claims office, as directed by the division in accordance with such regulations as the division may prescribe, except that the division may, by regulation, waive or alter either or both of the requirements of this subsection

as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which the division finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; provided that no such regulation shall conflict with subsection (a) of R.S.43:21-3.

(b) The individual has made a claim for benefits in accordance with the provisions of subsection (a) of R.S.43:21-6.

(c) (1) The individual is able to work, and is available for work, and has demonstrated to be actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section.

(2) The director may modify the requirement of actively seeking work if such modification of this requirement is warranted by economic conditions.

(3) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because the individual is on vacation, without pay, during said week, if said vacation is not the result of the individual's own action as distinguished from any collective action of a collective bargaining agent or other action beyond the individual's control.

(4) Subject to such limitations and conditions as the division may prescribe, an individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible because the individual is attending a training program approved for the individual by the division to enhance the individual's employment opportunities or because the individual failed or refused to accept work while attending such program.

(5) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance before a court in response to a summons for service on a jury.

(6) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance at the funeral of an immediate family member, provided that the duration of the attendance does not extend beyond a two day period.

For purposes of this paragraph, "immediate family member" includes any of the following individuals: father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse,

child, foster child, sister or brother of the unemployed individual and any relatives of the unemployed individual residing in the unemployed individual's household.

(d) The individual has been totally or partially unemployed for a waiting period of one week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, the individual shall be eligible to receive benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) If benefits have been paid, or are payable with respect thereto; provided that the requirements of this paragraph shall be waived with respect to any benefits paid or payable for a waiting period as provided in this subsection;

(2) If it has constituted a waiting period week under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(3) Unless the individual fulfills the requirements of subsections (a) and (c) of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R.S.43:21-5.

(e) (1) With respect to a base year as defined in subsection (c) of R.S.43:21-19, the individual has established at least 20 base weeks as defined in paragraph (1) of subsection (t) of R.S.43:21-19, or, in those instances in which the individual has not established 20 base weeks, the individual has earned \$2,200.00 for benefit years commencing prior to October 1, 1984; and, except as otherwise provided in paragraph (2) or paragraph (3) of this subsection, for benefit years commencing on or after October 1, 1984, the individual has earned 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, or more in the individual's base year.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, for benefit years commencing on or after October 1, 1984 and before January 1, 1985, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if it appears that the individual has established at least 20 base weeks as defined in

paragraph (2) of subsection (t) of R.S.43:21-19, or, in those instances in which the individual has not established 20 base weeks, the individual has earned \$2,200.00.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection (c) of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraph (1) of subsection (t) of R.S.43:21-19; or

(B) Has earned 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, or more; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(4) The individual applying for benefits in any successive benefit year has earned at least six times his previous weekly benefit amount and has had four weeks of employment since the beginning of the immediately preceding benefit year. This provision shall be in addition to the earnings requirements specified in paragraph (1), (2), or (3) of this subsection, as applicable.

(f) (1) The individual has suffered any accident or sickness not compensable under the Workers' Compensation Law (Title 34 of the Revised Statutes) and resulting in the individual's total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R.S.43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for the inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in R.S.43:21-27(b); provided further that no benefits shall be payable under this subsection to any individual:

(A) For any period during which such individual is not under the

care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist or chiropractor;

(B) (Deleted by amendment, P.L.1980, c.90.)

(C) For any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a crime of the first, second or third degree;

(D) For any week with respect to which or a part of which the individual has received or is seeking benefits under any unemployment compensation or disability benefits law of any other state or of the United States; provided that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such benefits, this disqualification shall not apply;

(E) For any week with respect to which or part of which the individual has received or is seeking disability benefits under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(F) For any period of disability commencing while such individual is a "covered individual," as defined in subsection 3(b) of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

(2) Benefit payments under this subsection shall be charged to and paid from the State disability benefits fund established by the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and (C) of R.S.43:21-19(i)(1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the "unemployment compensation law;" except that, notwithstanding any other provisions of the "unemployment compensation law:"

(1) With respect to service performed after December 31, 1977, in an instructional research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or

during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) With respect to weeks of unemployment beginning after September 3, 1982, on the basis of service performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual under this paragraph (2) and the individual was not offered an opportunity to perform these services for the educational institution for the second of any academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause;

(3) With respect to those services described in paragraphs (1) and (2) above, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such period or holiday recess;

(4) With respect to any services described in paragraphs (1) and (2) above, benefits shall not be paid as specified in paragraphs (1), (2), and (3) above to any individual who performed those services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing those services to one or more educational institutions.

(h) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two suc-

cessive sports seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(i) (1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed and was lawfully present for the purpose of performing the services or otherwise was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) (8 U.S.C. § 1153(a)(7)) or section 212(d)(5) (8 U.S.C. § 1182(d)(5)) of the Immigration and Nationality Act (8 U.S.C. § 1101 et seq.)); provided that any modifications of the provisions of section 3304(a)(14) of the federal Unemployment Tax Act (26 U.S.C. § 3304(a)(14)), as provided by Public Law 94-566, which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State law as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of alien status shall be made except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that it may be deemed efficient and economical, provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

2. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to read as follows:

C.43:21-39 Limitation of benefits.

15. Limitation of benefits. Notwithstanding any other provision of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), no benefits shall be payable under the State plan to any person:

(a) for the first seven consecutive days of each period of disability; except that if benefits shall be payable for three consecutive weeks with respect to any period of disability commencing on or after January 1, 1968, then benefits shall also be payable with respect to the first seven days thereof;

(b) for more than 26 weeks with respect to any one period of disability;

(c) for any period of disability which did not commence while the claimant was a covered individual;

(d) for any period during which the claimant is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist, or chiropractor, who, when requested by the division, shall certify within the scope of the practitioner's practice, the disability of the claimant, the probable duration thereof, and, where applicable, the medical facts within the practitioner's knowledge;

(e) (Deleted by amendment, P.L.1980, c.90.)

(f) for any period of disability due to willfully and intentionally self-inflicted injury, or to injury sustained in the perpetration by the claimant of a crime of the first, second, or third degree;

(g) for any period during which the claimant performs any work for remuneration or profit;

(h) in a weekly amount which together with any remuneration the claimant continues to receive from the employer would exceed regular weekly wages immediately prior to disability;

(i) for any period during which a covered individual would be disqualified for unemployment compensation benefits under subsection (d) of R.S.43:21-5, unless the disability commenced prior to such disqualification; and there shall be no other cause of disqualification or ineligibility to receive disability benefits hereunder except as may be specifically provided in this act.

3. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 214

AN ACT concerning certain reports by boards of education and supplementing P.L.1975, c.212 (C.18A:7A-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Each board of education shall report to the Department of Education, in a manner and form determined by the Commissioner of Education, the name of each student who is included in the pupil count conducted pursuant to section 17 of P.L.1975, c.212 (C.18A:7A-17) and who ceases to attend the schools of the reporting district. The report shall indicate whether, to the knowledge of the reporting district, the student is enrolled in any other school or institution and shall include such other pertinent information as the commissioner shall direct.

2. The Commissioner of Education shall make available to the public the data reported pursuant to this act in a summary form for each district. The names of individual students shall not be made public by the department.

3. This act shall take effect July 1 next following enactment and shall expire at the end of the fifth year following enactment.

Approved December 29, 1989.

CHAPTER 215

AN ACT concerning the deduction of certain fees in connection with child support payments and amending P.L.1981, c.417.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 5 of P.L.1981, c.417 (C.2A:17-56.11) is amended to read as follows:

C.2A:17-56.11 Binding effect; time for payment of withholding; fee to payor; notice to payor.

5. An income withholding made under this act shall be binding upon the payor and successor payors 14 days after service upon the payor by the probation department of a copy of the income withholding, by registered or certified mail with return receipt requested until further order. The payor is to pay the withheld amount to the proba-

tion department at the same time the obligor is paid. The payor shall implement withholding no later than the first pay period that occurs 14 days after the date the notice was postmarked. For each payment, other than a payment received from the unemployment compensation fund, the payor may receive \$1.00, which shall be deducted from the obligor's income in addition to the amount of the support order.

Notice to the payor shall include, but not be limited to, the amount to be withheld from the obligor's income and a statement that the amount actually withheld for support and other purposes may not be in excess of the maximum amount permitted under section 303(b) of the federal Consumer Credit Protection Act (15 U.S.C. § 1673(b)); that the payor shall send the amount to the probation department at the same time the obligor is paid, unless the probation department directs that payment be made to another individual or entity; that the payor may deduct a fee of \$1.00 in addition to the amount of the support order, except when the payment is received from the unemployment compensation fund; that withholding is binding on the payor until further notice by the probation department; that the payor is subject to a fine for discharging an obligor from employment, refusing to employ, or taking disciplinary action against an obligor because of the withholding; that if the payor fails to withhold wages in accordance with the provisions of the notice, the payor is liable for any amount up to the accumulated amount the payor should have withheld from the obligor's income; that the withholding shall have priority over any other legal process under State law against the same wages; that the payor may combine withheld amounts from the obligor's wages in a single payment to each appropriate agency requesting withholding and separately identify the portion of the single payment which is attributable to each individual obligor; that if there is more than one support order for withholding against a single obligor, the payor shall withhold the payments on a pro rata basis to fully comply with the support orders, to the extent that the total amount withheld does not exceed the limits imposed under section 303(b) of the federal Consumer Credit Protection Act (15 U.S.C. § 1673(b)); that the payor shall implement withholding no later than the first pay period that occurs 14 days after the date the notice was postmarked; and that the payor shall notify the probation department promptly upon the termination of the obligor's employment benefits and provide the obligor's last known address and the name and address of the obligor's new payor, if known.

2. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 216

AN ACT requiring educational programs to discourage the use of anabolic steroids and amending P.L.1987, c.387 and P.L.1987, c.389.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1987, c.387 (C.18A:40A-9) is amended to read as follows:

C.18A:40A-9 Definitions.

2. For the purposes of this act:

“Substance” shall mean alcoholic beverages, controlled dangerous substances as defined in section 2 of P.L.1970, c.266 (C.24:21-2), anabolic steroids or any chemical or chemical compound which releases vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction or dulling of the brain or nervous system including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes as defined in section 1 of P.L.1965, c.41 (C.2A:170-25.9).

“Substance abuse” shall mean the consumption or use of any substance as defined herein for purposes other than for the treatment of sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings.

2. Section 5 of P.L.1987, c.387 (C.18A:40A-12) is amended to read as follows:

C.18A:40A-12 Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment.

5. a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined pursuant to section 2 of this act, other than anabolic steroids, that teaching staff member, school nurse or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a substance awareness coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspec-

tor, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to his or her home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that he or she is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a substance awareness coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with such experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

b. Whenever any teaching staff member, school nurse or other educational personnel of any public school in this State shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a substance awareness coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or

guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a substance awareness coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with such experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

3. Section 1 of P.L.1987, c.389 (C.18A:40A-1) is amended to read as follows:

C.18A:40A-1 Instructional programs on drugs, alcohol, anabolic steroids and controlled dangerous substances; curriculum guidelines.

1. Instructional programs on the nature of drugs, alcohol, anabolic steroids and controlled dangerous substances, as defined in section 2 of P.L.1970, c.226 (C.24:21-2), and their physiological, psychological, sociological and legal effects on the individual, the family and society shall be taught in each public school and in each grade from kindergarten through 12 in a manner adapted to the age and understanding of the pupils. The programs shall be based upon the curriculum guidelines established by the Commissioner of Education pursuant to section 2 of this act, and shall be included in the curriculum for each grade in such a manner as to provide a thorough and comprehensive treatment of the subject.

4. Section 2 of P.L.1987, c.389 (C.18A:40A-2) is amended to read as follows:

C.18A:40A-2 Curriculum guidelines; annual review and updating; minimum requirements.

2. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for education programs on drugs, alcohol, anabolic steroids and con-

trolled dangerous substances. These guidelines shall be reviewed annually, and shall be updated as necessary to insure that the curriculum reflects the most current information available on the nature and treatment of drug, alcohol, anabolic steroids and controlled dangerous substance abuse and treatment. The guidelines shall provide for sequential course of study for each grade, K-12, and shall, at a minimum, include:

- a. Detailed, factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse;
- b. Detailed information concerning the availability of help and assistance for pupils and their families with chemical dependency problems;
- c. Decision making and coping skills; and,
- d. The development of activities and attitudes which are consistent with a healthy life style.

The guidelines shall include model instructional units, shall define specific behavioral and learning objectives and shall recommend instructional materials suitable for each grade level.

5. Section 3 of P.L.1987, c.389 (C.18A:40A-3) is amended to read as follows:

C.18A:40A-3 Initial inservice training programs; curriculum; availability.

3. a. Upon completion of the curriculum guidelines required pursuant to section 2 of this act, the Commissioner of Education, in consultation with the Commissioner of Health, shall establish inservice workshops and training programs to train selected public school teachers to teach an education program on drugs, alcohol, anabolic steroids and controlled dangerous substances. The inservice training programs may utilize existing county or regional offices, or such other institutions, agencies or persons as the Commissioner of Education deems appropriate. The programs and workshops shall provide instructional preparation for the teaching of the drug, alcohol, anabolic steroids and controlled dangerous substances curriculum, and shall, in addition to the curriculum material, include information on the history, pharmacology, physiology and psychosocial aspects of drugs, alcohol, anabolic steroids and controlled dangerous substances, symptomatic behavior associated with substance abuse, the availability of rehabilitation and treatment programs, and the legal aspects of substance abuse. Each local board

of education shall provide time for the inservice training during the usual school schedule in order to insure that appropriate teaching staff members are prepared to teach the education program in each grade in each school district.

b. Upon completion of the initial inservice training program, the Commissioner of Education shall insure that programs and workshops that reflect the most current information on substance abuse are prepared and are made available to teaching staff members at regular intervals.

c. In addition to providing inservice training programs for teaching staff members who will provide instruction on substance abuse in the public schools, the Commissioner of Education shall make these training programs available to such other instructional and supervisory personnel as he deems necessary and appropriate.

6. Section 5 of P.L.1987, c.389 (C.18A:40A-5) is amended to read as follows:

C.18A:40A-5 Loaning of educational materials.

5. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education pursuant to this act for the instruction of public school pupils on the nature and effects of drugs, alcohol, anabolic steroids and controlled dangerous substances. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

7. This act shall take effect July 1 next following enactment.

Approved December 29, 1989.

CHAPTER 217

AN ACT concerning school district budgets and amending N.J.S.18A:22-8.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.18A:22-8 is amended to read as follows:

Contents of budget; program budget system.

18A:22-8. The budget shall be prepared in such detail and upon such forms as shall be prescribed by the commissioner and to it shall be annexed a statement so itemized as to make the same readily understandable, in which shall be shown:

- a. In tabular form there shall be set forth the following:

(1) The total expenditure for each item for the preceding school year, the amount appropriated for the current school year adjusted for transfers as of December 1 of the current school year, and the amount estimated to be necessary to be appropriated for the ensuing school year, indicated separately for at least the following items:

- (a) Salaries—administration
- (b) Salaries—teaching
- (c) Salaries—for the operation of plant and maintenance
- (d) Categorical programs
 - (i) Salaries
 - (ii) Other
- (e) Supplies for the operation of plant—including fuel
- (f) Textbooks
- (g) Instructional supplies
- (h) Other supplies
- (i) School libraries and audio visual materials
- (j) Transportation of pupils
- (k) Insurance
- (l) Legal fees
- (m) Consulting fees, including negotiating fees

- (n) Contracts for maintenance
 - (o) Property
 - (p) Maintenance
 - (q) Evening schools
 - (r) Classes for the foreign born
 - (s) Vocational evening schools and courses
 - (t) Tuition paid to other districts
 - (u) Interest and debt redemption charges, in type II districts
 - (v) Any other major purposes including any capital project which the State Board of Education desires to include in the annual budget;
- (2) The amount of the surplus account available at the beginning of the preceding school year, at the beginning of the current school year and the amount anticipated to be available for the ensuing school year;
- (3) The amount of revenue available for budget purposes for the preceding school year, the amount available for the current school year as of December 1 of the current school year and the amount anticipated to be available for the ensuing school year in the following categories:
- (a) Total to be raised by local property taxes
 - (b) Total State aid
 - (i) Equalization aid
 - (ii) Categorical aid
 - (iii) Transportation aid
 - (iv) Other
 - (c) Total Federal aid
 - (i) Elementary and Secondary Education Act of 1965 (20 U.S.C. § 2701 et seq.)
 - (ii) Handicapped
 - (iii) Impact Aid
 - (iv) Vocational
 - (v) Other

(d) Other Sources.

b. In addition, the commissioner may provide for a program budget system.

c. In the event that the total expenditure for any item of appropriation is equal to \$0.00 for: (1) the preceding school year, (2) the current school year, and (3) the amount estimated to be necessary to be appropriated for the ensuing school year, that item shall not be required to be published pursuant to N.J.S.18A:22-11.

2. This act shall take effect immediately and shall be applicable to the 1990-91 school year and thereafter.

Approved December 29, 1989.

CHAPTER 218

AN ACT concerning the official survey base of the State and amending R.S.51:3-7 and R.S.51:3-8.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.51:3-7 is amended to read as follows:

Official survey base established; plane co-ordinates.

51:3-7. The official survey base for New Jersey shall be a system of plane co-ordinates to be known as the New Jersey system of plane co-ordinates, said system being defined as a transverse Mercator projection of the Geodetic Reference System of 1980, having a central meridian 74° 30' west from Greenwich on which meridian the scale is set at one part in 10,000 too small. All co-ordinates of the system are expressed in meters, the x co-ordinate being measured easterly along the grid and the y co-ordinate being measured northerly along the grid, the origin of the co-ordinates being on the meridian 74° 30' west from Greenwich at the intersection of the parallel 38° 50' north latitude, such origin being given the co-ordinates x=150,000 meters; y=0 meters. The precise position of said system shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the National Geodetic Survey, formerly the United States Coast and Geodetic Survey for first and second-order work, whose geodetic positions have been rigidly adjusted on the North American Datum of 1983 or the most

recently published adjustment by the National Geodetic Survey, and whose plane co-ordinates have been computed on the system defined. The New Jersey co-ordinate system defined by the North American Datum of 1927 may be used concurrently with or in lieu of the system defined by the North American Datum of 1983 for a period of 36 months after the effective date of this amendatory act, P.L.1989, c.218.

Standard conversions from meters to feet shall be the adopted standards of the National Oceanic and Atmospheric Administration.

2. R.S.51:3-8 is amended to read as follows:

Connecting property surveys with system of co-ordinates.

51:3-8. Any triangulation or traverse station established as described in section 51:3-7 of this title shall be used in establishing a connection between a property survey and the above-mentioned system of rectangular co-ordinates.

3. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 219

AN ACT excluding certain income of nonresidents from taxation under the gross income tax and amending N.J.S.54A:5-5 and N.J.S.54A:5-8.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.54A:5-5 is amended to read as follows:

Nonresident individuals; taxable income.

54A:5-5. Nonresident individuals; taxable income. The income of a nonresident individual shall be that part of his income derived from sources within this State as defined in this act, except that income of a nonresident individual shall not include income derived from sources within this State from pensions and annuities as set forth in subsection j. of N.J.S.54A:5-1.

2. N.J.S.54A:5-8 is amended to read as follows:

Income from sources within this State for nonresident.

54A:5-8. Income from sources within this State for a nonresident

individual, estate or trust means the same as compensation, net profits, gains, dividends, interest or income enumerated and classified under chapter 5 of this act to the extent that it is earned, received or acquired from sources within this State:

- (1) By reason of ownership or disposition of any interest in real or tangible personal property in this State; or
- (2) In connection with a trade, profession, occupation carried on in this State or for the rendition of personal services performed in this State; or
- (3) As a distributive share of the income of an unincorporated business, profession, enterprise, undertaking or other activity as the result of work done, services rendered or other business activities conducted in this State except as allocated to another state pursuant to regulations promulgated by the director under this act; or
- (4) From intangible personal property employed in a trade, profession, occupation or business carried on in this State.

Income from sources within this State for a nonresident individual shall not include income from pensions and annuities as set forth in subsection j. of N.J.S.54A:5-1.

3. This act shall take effect immediately and shall be retroactive to January 1 of the tax year in which enacted.

Approved December 29, 1989.

CHAPTER 220

AN ACT to protect employees from retaliatory action by employers and amending P.L.1986, c.105.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read as follows:

C.34:19-3 Retaliatory action prohibited.

3. An employer shall not take any retaliatory action against an employee because the employee does any of the following:

- a. Discloses, or threatens to disclose to a supervisor or to a public

body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law;

b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer or another employer, with whom there is a business relationship; or

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:

(1) is in violation of a law, or a rule or regulation promulgated pursuant to law;

(2) is fraudulent or criminal; or

(3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

2. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 221

AN ACT concerning the form of designation of members of certain municipal governing bodies and amending P.L.1950, c.210, P.L.1973, c.89 and P.L.1981, c.465.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1-14 of P.L.1950, c.210 (C.40:69A-14) is amended to read as follows:

C.40:69A-14 Form of submission of question of adoption of optional plans of government.

1-14. The question to be submitted to the voters for the adoption of any of the optional plans of government authorized by this act, including any of the alternatives contained in this act, shall be submitted in the following form or such part thereof as shall be applicable:

"Shall (insert name of plan) of the Optional Municipal Charter Law, providing for (a division of the municipality into (insert number) wards, with) (insert number) council members (one to be elected from each ward and (insert number) to be elected at large) at elections held in (insert May or November), (insert, if appropriate) with run-off elections to be held thereafter if a sufficient number of candidates fail to attain a majority of votes, be adopted by (insert name of municipality)?"

2. Section 17 of P.L.1981, c.465 (C.40:69A-34.2) is amended to read as follows:

C.40:69A-34.2 Council members; election at large or by ward.

17. Any municipality adopting a mayor-council plan of government shall provide in its charter either:

a. That the council members shall be elected at large by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide; or

b. That the municipality shall be divided into wards pursuant to the authority granted in section 1-13 or 1-19 (C.40:69A-13 or 40:69A-19); that council members shall be elected at large and by wards at the regular municipal election or general election, as the charter shall provide; and that no more than one council member shall be elected from each ward established in the municipality, and all other council members shall be elected at large.

3. Section 18 of P.L.1981, c.465 (C.40:69A-34.3) is amended to read as follows:

C.40:69A-34.3 First council members; terms of office.

18. a. Any municipality adopting a mayor-council plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for four years and three for two years; if the municipal council is to consist of seven members, three shall serve for four years and four for two years; or if the municipal council is to consist of nine members, four shall serve for four years and five for two years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following the election.

b. Notwithstanding the provisions of subsection a. of this section, if a municipality adopting the provisions of this section shall also provide in its charter that the municipality shall be divided into wards pursuant to the authority granted in section 1-13 or 1-19 (C.40:69A-13 or 40:69A-19), the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve as follows: the council members elected at large for a term of four years; and the council members elected from wards for a term of two years.

4. Section 1 of P.L.1973, c.89 (C.40:69A-60.5) is amended to read as follows:

C.40:69A-60.5 Municipalities over 300,000 and 200,000 to 300,000 prior to Jan. 9, 1982; aides for councilmen.

1. The municipal council of any municipality having a population of more than 300,000 which, prior to January 9, 1982 had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of the act of which this act is a supplement, may appoint an executive secretary and not more than four aides for each council member, who shall serve, and be removable at the pleasure of the council member, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance, but said salary shall not exceed the salaries of persons present holding the positions of executive secretary or aide on the effective date of this amendatory act. Persons appointed pursuant to this section may have their salaries increased on a periodic basis but not in excess of the average percentage increase granted to other municipal employees in the same period.

The municipal council of any municipality having a population of more than 200,000, but less than 300,000, which, prior to January 9, 1982, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of P.L.1959, c.210 (C.40:69A-55 et seq.) may appoint not more than one aide for each council member, who shall serve, and be removable at the pleasure of the council member, and who shall serve in the unclassified service of the civil service of the city and shall receive a salary as shall be fixed by ordinance, except that the salary so fixed shall not exceed \$10,000.00.

No municipality shall adopt the provisions of this section on or after the date occurring six months after the effective date of this amendatory act.

5. Section 24 of P.L.1981, c.465 (C.40:69A-83.2) is amended to read as follows:

C.40:69A-83.2 Election at large or by wards.

24. Any municipality adopting a council-manager plan of government shall provide in its charter either:

a. That the council members shall be elected at large by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide; or

b. That the municipality shall be divided into wards pursuant to the authority granted in section 1-13 or 1-19 (C.40:69A-13 or 40:69A-19), that council members shall be elected at large and by wards at the regular municipal election or general election, as the charter shall provide; and that no more than one council member shall be elected from each ward established in the municipality, and all other council members shall be elected at large.

6. Section 25 of P.L.1981, c.465 (C.40:69A-83.3) is amended to read as follows:

C.40:69A-83.3 Terms of first council members.

25. Any municipality adopting a council-manager plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for four years and three for two years; if the municipal council is to consist of seven members, three shall serve for four years and four for two years; or if the municipal council is to consist of nine members, four shall serve for four years and five for two years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following the election; except that if, pursuant to the charter, the mayor is elected directly by the voters, the mayor shall, for the purposes of this subsection, be counted among those first council members to serve a four year term.

b. Notwithstanding the provisions of subsection a. of this section, if a municipality adopting the provisions of this section shall also provide in its charter that the municipality shall be divided into wards pursuant to the authority granted in section 1-13 or 1-19 (C.40:69A-13 or 40:69A-19), the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve as follows: the

council members elected at large for a term of four years; and the council members elected from wards for a term of two years.

7. Section 9-11 of P.L.1950, c.210 (C.40:69A-91) is amended to read as follows:

C.40:69A-91 Municipal council to act as a body; administrative service to be performed through manager; committees or commissions.

9-11. It is the intention of this article that the municipal council shall act in all the matters as a body, and it is contrary to the spirit of this article for any of its members to seek individually to influence the official acts of the municipal manager, or any other officer, or for the council or any of its members to direct or request the appointment of any person to, or his removal from, office; or to interfere in any way with the performance by such officers of their duties. The council and its members shall deal with the administrative service solely through the manager and shall not give orders to any subordinates of the manager, either publicly or privately. Nothing herein contained shall prevent the municipal council from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any officer or department, or any matter relating to the welfare of the municipality, and delegating to such committees or commissions such powers of inquiry as the municipal council may deem necessary. Any council member violating the provisions of this section shall, upon conviction thereof in a court of competent jurisdiction, be disqualified as a council member.

8. Section 13-3 of P.L.1950, c.210 (C.40:69A-117) is amended to read as follows:

C.40:69A-117 Composition of council.

13-3. The council shall consist of the mayor and two council members, unless pursuant to the authority granted under section 1-13 or 1-19 of article 1 of this act, or unless provided by amendment of the charter pursuant to section 7 of this amendatory act, the municipality shall be governed by a mayor and four or six council members. Members of the council shall be elected at large by the voters of the municipality and shall serve for a term of three years.

9. Section 33 of P.L.1981, c.465 (C.40:69A-117.2) is amended to read as follows:

C.40:69A-117.2 First members of council; terms of office.

33. Any municipality adopting a small municipality plan of government may provide in its charter that the council members elected

at the first regular municipal election or general election as the charter shall provide, following the adoption of the plan shall serve for the following terms: if the municipal council is to consist of three members, one shall serve for one year, one for two years and one for three years; if the municipal council is to consist of five members, two shall serve for one year, two for two years and one for three years; or if the municipal council is to consist of seven members, three shall serve for a term of one year, two for a term of two years and two for a term of three years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following their election; except that if, pursuant to the charter, the mayor is elected directly by the voters, the mayor shall, for the purposes of this section, be counted among those first council members to serve a four year term.

10. Section 13-9 of P.L.1950, c.210 (C.40:69A-123) is amended to read as follows:

C.40:69A-123 Finance committee and other committees of council.

13-9. The mayor shall also appoint a finance committee of council which may consist of one or more council members, and may appoint and designate other committees of council of similar composition.

11. Section 16A-3 of P.L.1981, c.465 (C.40:69A-149.3) is amended to read as follows:

C.40:69A-149.3 Council; composition; mayor and councilmen; election; terms of office.

16A-3. The council shall consist of the mayor and six council members. The mayor and council shall be elected at the general election to be held on the first Tuesday after the first Monday in November. Except as otherwise provided in this article for council members first elected, the mayor shall serve for a term of four years and the council members for a term of three years, beginning on January 1 next following their election.

12. Section 16A-4 of P.L.1981, c.465 (C.40:69A-149.4) is amended to read as follows:

C.40:69A-149.4 Election at large; terms of office of first elected.

16A-4. The mayor and council members shall be elected at large by the voters of the municipality. At the first election following the adoption by a municipality of this section, of the six council members to be elected, two shall serve for a term of three years, two shall serve for a term of two years, and two shall serve for a term of one year.

13. Section 16A-5 of P.L.1981, c.465 (C.40:69A-149.5) is amended to read as follows:

C.40:69A-149.5 Council; legislative power; status of mayor; quorum; president; special meetings.

16A-5. The legislative power of the municipality shall be exercised by the council, except as may be otherwise provided by general law. The mayor shall preside over all meetings of the council except as herein provided, but shall not vote except to give the deciding vote in case of a tie. Three council members and the mayor, and in the absence of the mayor, four council members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. The council shall annually select from among the council members a president of the council who shall serve in place of the mayor in the event of the mayor's absence, disability or refusal to preside. The mayor shall, when necessary, call special meetings of the council. In case of the mayor's neglect or refusal, any four council members may call a special meeting upon due notice of the time and place to the mayor and all council members.

14. Section 17-13 of P.L.1950, c.210 (C.40:69A-162) is amended to read as follows:

C.40:69A-162 Candidates elected in municipalities adopting article 13 or 14.

17-13. In any municipality which has adopted article 13 or 14 of this act, the candidate for mayor, if there be one, who receives the greatest number of votes shall be elected and the number of candidates for council member equal to the number of places to be filled in the council, receiving the greatest number of votes shall be elected.

15. Section 17-31 of P.L.1950, c.210 (C.40:69A-180) is amended to read as follows:

C.40:69A-180 Rules of procedure; quorum; ordinances and resolutions; presiding officer; compensation.

17-31. (a) Council shall determine its own rules of procedure, not inconsistent with ordinance or statute. A majority of the whole number of members of the council shall constitute a quorum, but no ordinance shall be adopted by the council without the affirmative vote of a majority of all the members of the council.

(b) Each ordinance or resolution shall be introduced in written or typewritten form and shall be read and considered as provided by general law. The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered

on the minutes. The minutes of each meeting shall be signed by the officer presiding at such meeting and by the municipal clerk.

(c) The council at its organization meeting shall elect a president of the council from among the members thereof and the president shall preside at its meetings and perform such other duties as the council may prescribe. In the absence of the president, the council shall elect a temporary presiding officer. The compensation of the mayor, council members and department heads shall be fixed by the council immediately after its organization.

16. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 222

AN ACT concerning emergency management and requiring the preparation of an emergency operation plan for the State and each county and municipality, amending the title of P.L.1942, c.251, amending various sections of statutory law and supplementing chapter 9 of Appendix A.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

Title amended.

1. The title of "An act concerning civilian defense and disaster control during emergency," approved May 23, 1942 (P.L.1942, c.251), as said title was amended by P.L.1953, c.438, is amended to read "An act concerning emergency management."

2. Section 8 of P.L.1953, c.438 (C.App.A:9-40.1) is amended to read as follows:

C.App.A:9-40.1 Municipal emergency management coordinator.

8. In every municipality of this State the mayor or, in the case of a municipality which has adopted the commission form of government pursuant to the provisions of the "commission form of government law" (R.S.40:70-1 et seq.), the commissioner serving as director of the department to which the responsibility for emergency management has been assigned, shall appoint a municipal emergency management coordinator from among the residents of the municipality.

The municipal emergency management coordinator, subject to fulfilling the requirements of this section, shall serve for a term of three years. As a condition of his appointment and his right to continue for the full term of his appointment, each municipal emergency management coordinator shall have successfully completed at the time of his appointment or within one year immediately following his appointment or the effective date of this act, whichever is later, the current approved Home Study Course and the basic Emergency Management workshop. The failure of any municipal emergency management coordinator to fulfill such requirement within the period prescribed shall disqualify the coordinator from continuing in the office of coordinator and thereupon a vacancy in said office shall be deemed to have been created.

3. Section 18 of P.L.1953, c.438 (C.App.A:9-40.2) is amended to read as follows:

C.App.A:9-40.2 Removal of municipal emergency management coordinator.

18. The Governor may remove any municipal emergency management coordinator at any time for cause. In such event the mayor of the municipality or, in the case of a municipality which has adopted the commission form of government pursuant to the provisions of the "commission form of government law" (R.S.40:70-1 et seq.), the commissioner serving as director of the department to which the responsibility for emergency management has been assigned, shall appoint a new municipal emergency management coordinator with the approval of the Governor. If the mayor or commissioner, as appropriate, shall not appoint a municipal emergency management coordinator within 10 days after such office shall become vacant, the Governor may appoint a temporary municipal emergency management coordinator, who shall serve and perform all of the duties of that office until such time as a new municipal emergency management coordinator shall be appointed by the mayor or commissioner, as appropriate, with the approval of the Governor.

4. Section 10 of P.L.1953, c.438 (C.App.A:9-40.4) is amended to read as follows:

C.App.A:9-40.4 Duties of municipal emergency management coordinator.

10. Each municipal emergency management coordinator shall be responsible for the planning, activating, coordinating, and the conduct of emergency management operations within his municipality.

5. Section 22 of P.L.1953, c.438 (C.App.A:9-40.5) is amended to read as follows:

C.App.A:9-40.5 Proclamation of state of local disaster emergency within municipality; powers of coordinator.

22. Whenever, in his opinion, a disaster has occurred or is imminent in any municipality, the municipal emergency management coordinator of that municipality shall proclaim a state of local disaster emergency within the municipality. The municipal emergency management coordinator, in accordance with regulations promulgated by the State Director of Emergency Management, shall be empowered to issue and enforce such orders as may be necessary to implement and carry out emergency management operations and to protect the health, safety, and resources of the residents of the municipality.

6. Section 23 of P.L.1953, c.438 (C.App.A:9-40.6) is amended to read as follows:

C.App.A:9-40.6 Aid in time of disaster or emergency.

23. No representative of any municipality shall request aid in time of disaster or emergency directly from noncontiguous municipalities nor shall any municipality or public or semipublic agency send personnel or equipment into a disaster-stricken municipality unless and until such aid has been directed by the county emergency management coordinator or his deputies. Specific exemptions from the action of this section may be granted only by authority of the State Director of Emergency Management.

7. Section 9 of P.L.1942, c.251 (C.App.A:9-41) is amended to read as follows:

C.App.A:9-41 Local emergency management councils.

9. Every municipality of this State, other than counties, shall create a local emergency management council. Each local emergency management council shall be composed of not more than 15 members who shall be appointed by the mayor or chief executive officer of the municipality and shall hold office at the will and pleasure of the appointing authority. The municipal emergency management coordinator shall be a member and shall serve as chairman of the local emergency management council. The local emergency management council shall assist the municipality in establishing the various local volunteer agencies needed to meet the requirements of all local emergency management activities in accordance with rules and regulations established by the Governor in pursuance of the provisions of this act. The local emergency management council is authorized,

within the limits of appropriations, to establish an adequate organization to assist in supervising and coordinating the emergency management activities of the local municipality. It shall be lawful for the members of the local emergency management council also to be members of other agencies created because of any emergency. Upon the effective date of this act, the local emergency management councils heretofore appointed shall become the respective local emergency management councils provided for in this act and shall thereafter continue to function as such local emergency management councils, subject to the provisions of this act.

8. Section 12 of P.L.1953, c.438 (C.App.A:9-42.1) is amended to read as follows:

C.App.A:9-42.1 County emergency management coordinator; appointment; term of office.

12. In every county of this State the governing body shall appoint a county emergency management coordinator, which appointment shall be for a term of three years. The appointments shall be subject to the approval of the State Director of Emergency Management and thereafter shall be subject to his orders. The State Director of Emergency Management shall exercise supervision and control of all such appointees, who may be removed by said State Director of Emergency Management for cause.

9. Section 2 of P.L.1985, c.504 (C.App.A:9-42.1a) is amended to read as follows:

C.App.A:9-42.1a Coordinator appointed prior to Jan. 21, 1986, exception; term.

2. Any county emergency management coordinator appointed prior to the effective date of P.L.1985, c.504 (C.App.A:9-42.1a) shall serve for the length of the term to which the coordinator was appointed unless removed for just cause, except that any coordinator not appointed for a specific term shall begin the new term on the effective date of this act. Thereafter, the provision of section 12 of P.L.1953, c.438 (C.App.A:9-42.1) relating to the length of a term shall take effect.

C.App.A:9-42.1b Filling of deputy emergency management coordinator position.

10. The deputy emergency management coordinator position shall be filled by the governing body in each county by: a. the appointment of a qualified individual; b. the selection of a qualified volunteer; or, if appropriate, c. the selection of an individual pursuant to the rules and regulations of the Department of Personnel of the State of New Jersey.

11. Section 13 of P.L.1953, c.438 (C.App.A:9-42.2) is amended to read as follows:

C.App.A:9-42.2 Duties of county emergency management coordinator.

13. The county emergency management coordinator shall be responsible for the development, coordination, and activation of countywide mutual aid emergency management plans; and for the activation of such emergency management facilities and services as are available from the resources of the county government.

12. Section 13 of P.L.1942, c.251 (C.App.A:9-45) is amended to read as follows:

C.App.A:9-45 Orders, rules, and regulations; black-outs, air raids, etc.; posting.

13. In order to accomplish the purposes of this act, the Governor is empowered to make such orders, rules and regulations as may be necessary adequately to meet the various problems presented by any emergency and from time to time to amend or rescind such orders, rules and regulations, including among others the following subjects:

a. On matters pertaining to the method of conducting black-outs, partial black-outs, and modifying and controlling illumination, and pertaining to the conduct of the civilian population of this State during such black-outs, partial black-outs, and periods during which illumination is modified.

b. On matters pertaining to air raid warnings and air raids and the conduct of the civilian population during the alert period of an air raid or of a threatened or impending air raid and during and following any air raid.

c. Concerning the organization, recruiting, training, conduct, duties and powers of volunteer agencies, including air raid wardens, auxiliary police and firemen, demolition and clearance crews, fire watchers, road repair crews, rescue squads, medical corps, nurses' aides corps, decontamination squads, drivers' corps, messengers' corps, emergency food and housing corps, utility repair squads, and all other civilian protection forces exercising or performing any functions or duties in connection with the problems of local civilian defense or emergency management.

d. The designation of vehicles and persons permitted to move during air raids or any emergency.

e. The conduct of the civilian population during the threat of and imminence of danger or any emergency.

f. The method of meeting threatened air raid danger insofar as it affects the children in our schools.

g. Concerning the meeting or counteracting of threatened and actual sabotage, subversive activities, and other dangers incident to any emergency.

h. Concerning the method of evacuating residents of threatened districts and the course of conduct of the civilian population during any necessary evacuation.

i. On any matter that may be necessary to protect the health, safety and welfare of the people or that will aid in the prevention of loss to and destruction of property.

j. Such other matters whatsoever as are or may become necessary in the fair, impartial, stringent and comprehensive administration of this act.

All such orders, rules and regulations when established shall be forthwith promulgated by proclamation of the Governor, which promulgation shall be deemed to be sufficient notice to the public. All such orders, rules and regulations when promulgated shall be binding upon all political subdivisions, public agencies, public officials and public employees of this State. All such orders, rules and regulations having to do with the conduct of persons which shall be adopted by the Governor and promulgated as provided herein shall be binding upon each and every person within this State. Upon the adoption and promulgation of orders, rules and regulations as provided above, the civilian defense director shall send a copy to the municipal emergency management coordinator and to the clerk of each municipality of this State in which such order, rule or regulation will take effect. The said municipal clerk shall forthwith post any such order, rule or regulation in a public place in the municipal building.

13. Section 17 of P.L.1953, c.438 (C.App.A:9-45.1) is amended to read as follows:

C.App.A:9-45.1 Officers to perform duties in accordance with rules and regulations.

17. An officer of a municipality or county who is charged with duties pertaining to emergency management planning shall perform his duties in accordance with rules and regulations promulgated by the Governor.

14. Section 16 of P.L.1942, c.251 (C.App.A:9-48) is amended to read as follows:

C.App.A:9-48 Emergency commander.

16. The Governor shall be in command in the event of any actual or imminent or threatened disaster or catastrophe in anywise connected with any emergency, and the Governor is authorized to designate the person to take command anywhere within this State of all emergency management activities in the event of such actual or imminent or threatened disaster or catastrophe, and is further authorized to delegate to such emergency commander any and all powers which in the judgment of the Governor it is deemed necessary to delegate. The judgment of the Governor in such matters shall be conclusive. Nothing contained in this section shall be construed to apply to any case where the federal government has assumed jurisdiction pursuant to the war powers of said government.

15. Section 19 of P.L.1942, c.251 (C.App.A:9-51) is amended to read as follows:

C.App.A:9-51 Extraordinary emergencies; powers; compensation boards; proceedings for compensation.

19. a. Whenever, in his opinion, the control of any disaster is beyond the capabilities of local authorities, the Governor is authorized:

(1) To assume control of all emergency management operations.

(2) To proclaim an emergency if he deems the same necessary.

(3) Temporarily to employ, take or use the personal services, or real or personal property, of any citizen or resident of this State, or of any firm, partnership or unincorporated association doing business or domiciled in this State, or of any corporation incorporated in or doing business in this State, or the real property of a nonresident located in this State, for the purpose of securing the defense of the State or of protecting or promoting the public health, safety or welfare; provided, that such personal services or property shall not be employed or used beyond the borders of this State unless otherwise authorized by law.

b. Compensation for any personal services required of any natural person under the provisions of subsection a. of this section shall be paid at the prevailing established rate for services of a like or similar nature.

c. There is hereby established an emergency compensation board in and for each county of the State, to be composed of three persons

appointed by the Governor who shall serve at the will and pleasure of the Governor and without compensation. Wherever the volume of work makes it necessary, the Governor may appoint one or more additional emergency compensation boards in any county of this State. The emergency compensation board shall award reasonable compensation to the party entitled thereto for any property employed, taken or used under the provisions of this subsection and for any injury caused by such employment, taking or using. Any party who deems himself entitled to such compensation as is provided for in this section may file a petition for an award with the board, naming the State as defendant. Such petition shall be filed with an emergency compensation board in the county in which the property was located at the time it was employed, taken or used. A copy of said petition shall be served on the Attorney General. The board shall thereupon after reasonable and proper notice to the petitioner and the Attorney General, grant a hearing upon such petition and render a decision fixing the amount of the award. This award shall be paid within one year after the decision is rendered from any funds appropriated by the State for such purpose.

d. Any party who deems himself aggrieved by the decision of an emergency compensation board of any county shall have the right to bring an action for such compensation against the State as defendant in the Superior Court, according to the practice and procedure covering condemnation proceedings in such court. Either the State or the petitioner shall have a right to trial by jury in such court.

e. When, in the opinion of the Governor, the period of emergency under which action has been taken by him as provided under subsection a. of this section has passed, he shall issue a proclamation declaring its end and suspending the powers granted to him under subsection a. of this section and no petition for an award as provided for in subsection c. shall be filed after one year from the date of the Governor's proclamation declaring the end of the emergency; provided, that any member of the Armed Forces of the United States whose property was employed, taken or used as provided in said subsection a. of this section may file such petition within two years after the Governor's proclamation.

16. Section 25 of P.L.1953, c.438 (C.App.A:9-57.26) is amended to read as follows:

C.App.A:9-57.26 Emergency management volunteers and their dependents; disability, death, medical and hospital benefits.

25. The provisions of chapter 12 of the laws of 1952, supplemental to the act of which this act is amendatory and supplementary, provid-

ing disability, death and medical and hospital benefits, in certain cases, to emergency management volunteers and their dependents, shall apply in the same manner to such volunteers and their dependents under the provisions of this amendatory and supplementary act.

17. Section 4 of P.L.1976, c.45 (C.40A:14-156.4) is amended to read as follows:

C.40A:14-156.4 Suspension of acts to provide emergency assistance; declaration of civilian defense and disaster control emergency.

4. The county emergency management coordinator for the county in which emergency assistance is rendered pursuant to this act or N.J.S.40A:14-26 or N.J.S.40A:14-156, may by express order suspend operation of the provisions of any of said acts as to any municipality or municipalities in said county, upon declaration of an emergency pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), as amended and supplemented by P.L.1953, c.438, or any regulation promulgated thereunder.

C.App.A:9-43.1 State Emergency Operations Plan.

18. The State Office of Emergency Management shall adopt, no later than 12 months following the effective date of this act, a State Emergency Operations Plan, including rules, regulations, and guidelines, that shall be reviewed and updated at least every two years.

C.App.A:9-43.2 County, municipal written Emergency Operations Plans.

19. Each county and municipality in the State shall prepare a written Emergency Operations Plan with all appropriate annexes necessary to implement the plan. Each Emergency Operations Plan shall be adopted no later than one year after the State Emergency Planning Guidelines have been adopted by the State Office of Emergency Management and shall be evaluated at such subsequent scheduled review of the State Emergency Operations Plan.

C.App.A:9-43.3 Guidelines for Emergency Operations Plans.

20. Each county and municipal Emergency Operations Plan shall conform to all relevant federal and State statutes, rules and regulations concerning emergency operations and shall include the identification of significant hazards affecting the jurisdiction. Each county and municipal Emergency Operations Plan shall be based upon planning criteria, objectives, requirements, responsibilities and concepts of operation for the implementation of all necessary and appropriate protective or remedial measures to be taken in response to an actual or threatened emergency as determined by the State Director of Emergency Management. Each county and municipal Emergency

Operations Plan shall be reviewed and updated at least every two years.

C.App.A:9-43.4 Approval by State Office of Emergency Management.

21. Each county and municipality shall submit an Emergency Operations Plan to the State Office of Emergency Management. No Emergency Operations Plan shall take effect without approval by the State Office of Emergency Management. The State Office of Emergency Management shall review the plans and determine their compatibility with the State Emergency Operations Plan Guidelines and shall either approve, conditionally approve, or disapprove the plan. The State Office of Emergency Management shall set forth in writing its reasons for disapproval of any plan or, in the case of the issuance of a conditional approval, shall specify the necessary amendments to the plan. If the State Office of Emergency Management fails to approve, conditionally approve, or disapprove an Emergency Operations Plan within 60 days of receipt of the plan, it shall be considered approved by the State Office of Emergency Management.

C.App.A:9-43.5 Grants to municipalities, counties for development of Emergency Operations Plans.

22. The State Office of Emergency Management, subject to available appropriations and grants from other sources, is authorized to award grants to any municipality or county to assist in the development of an Emergency Operations Plan. The State Office of Emergency Management shall prescribe and promulgate, pursuant to law, procedures for applying for the grant and terms and conditions for receiving the grant.

C.App.A:9-43.6 Technical assistance, planning grants to municipalities.

23. The State and counties shall be authorized to provide technical assistance and planning grants to municipalities to assist in the preparation and revision of municipal Emergency Operations Plans pursuant to section 19 of this amendatory and supplementary act.

24. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 223

AN ACT permitting the waiver of construction permit and enforcing agency fees in certain circumstances and supplementing P.L.1975, c.217 (C.52:27D-119 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.52:27D-126e Waiver of construction permit and enforcing agency fees for work done to promote accessibility by handicapped.

1. Notwithstanding the provisions of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or any rules, regulations or standards adopted pursuant thereto, to the contrary, the governing body of any municipality which has appointed an enforcing agency pursuant to the provisions of section 8 of P.L.1975, c.217 (C.52:27D-126) may, by ordinance, provide that no person shall be charged a construction permit surcharge fee or enforcing agency fee for any construction, reconstruction, alteration or improvement designed and undertaken solely to promote accessibility by the handicapped to an existing public or private structure or any of the facilities contained therein.

For the purposes of this section, "handicapped person" means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, and shall include, but not be limited to, any resident of this State who is disabled pursuant to the federal Social Security Act (42 U.S.C. § 416), or the federal Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.), or is rated as having a 60% disability or higher pursuant to any federal law administered by the United States Veterans' Act. For purposes of this paragraph "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

2. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 224

AN ACT concerning leaves of absence of certain public employees to attend State or national conventions and amending P.L.1977, c.347.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 1 of P.L.1977, c.347 (C.40A:14-177) is amended to read as follows:

C.40A:14-177 Attendance at State or national convention of certain organizations.

1. The heads of the county offices of the several counties and the head of every department, bureau and office in the government of the various municipalities shall give a leave of absence with pay to every person in the service of the county or municipality who is a duly authorized representative of the New Jersey State Patrolmen's Benevolent Association, Inc., Fraternal Order of Police, American Federation of Police Officers, Inc., Bronze Shields, Inc., Batons, Vulcan Pioneers, a member organization of the New Jersey Council of Charter Members of the National Black Police Association, Inc., Firemen's Mutual Benevolent Association, Inc., the Uniformed Firemen's Association, or the New Jersey State Association of Chiefs of Police, to attend any State or national convention of such organization.

A certificate of attendance to the State convention shall, upon request, be submitted by the representative so attending.

Leave of absence shall be for a period inclusive of the duration of the convention with a reasonable time allowed for time to travel to and from the convention.

2. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 225

AN ACT providing for a comprehensive education program on the nature and effect of tobacco, prohibiting cigarette vending machines in public school buildings, amending the title and body of P.L.1987, c.389 and supplementing chapter 40A of Title 54 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The title of P.L.1987, c.389 (C.18A:40A-1 et seq.) is amended to read as follows:

Title amended.

An act providing for a comprehensive education program on the nature and effects of drugs, alcohol, tobacco and controlled dangerous substances, supplementing Title 18A of the New Jersey Statutes, revising parts of statutory law and making an appropriation.

2. Section 1 of P.L.1987, c.389 (C.18A:40A-1) is amended to read as follows:

C.18A:40A-1 Instructional programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances; curriculum guidelines.

1. Instructional programs on the nature of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, as defined in section 2 of P.L.1970, c.226 (C.24:21-2), and their physiological, psychological, sociological and legal effects on the individual, the family and society shall be taught in each public school and in each grade from kindergarten through 12 in a manner adapted to the age and understanding of the pupils. The programs shall be based upon the curriculum guidelines established by the Commissioner of Education pursuant to section 2 of this act, and shall be included in the curriculum for each grade in such a manner as to provide a thorough and comprehensive treatment of the subject.

3. Section 2 of P.L.1987, c.389 (C.18A:40A-2) is amended to read as follows:

C.18A:40A-2 Curriculum guidelines; annual review and updating; minimum requirements.

2. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for education programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. These guidelines shall be reviewed annually, and shall be updated as necessary to insure that the cur-

riculum reflects the most current information available on the nature and treatment of drug, alcohol, anabolic steroids, tobacco and controlled dangerous substance abuse and treatment. The guidelines shall provide for a sequential course of study for each grade, K-12, and shall, at a minimum, include:

- a. Detailed, factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse;
- b. Detailed information concerning the availability of help and assistance for pupils and their families with chemical dependency problems;
- c. Decision making and coping skills; and,
- d. The development of activities and attitudes which are consistent with a healthy life style.

The guidelines shall include model instructional units, shall define specific behavioral and learning objectives and shall recommend instructional materials suitable for each grade level.

4. Section 3 of P.L.1987, c.389 (C.18A:40A-3) is amended to read as follows:

C.18A:40A-3 Initial inservice training programs; curriculum; availability.

3. a. Upon completion of the curriculum guidelines required pursuant to section 2 of this act, the Commissioner of Education, in consultation with the Commissioner of Health, shall establish inservice workshops and training programs to train selected public school teachers to teach an education program on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The inservice training programs may utilize existing county or regional offices, or such other institutions, agencies or persons as the Commissioner of Education deems appropriate. The programs and workshops shall provide instructional preparation for the teaching of the drug, alcohol, anabolic steroids, tobacco and controlled dangerous substances curriculum, and shall, in addition to the curriculum material, include information on the history, pharmacology, physiology and psychosocial aspects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, symptomatic behavior associated with substance abuse, the availability of rehabilitation and treatment programs, and the legal aspects of substance abuse. Each local board of education shall provide time for the inservice training during the usual school schedule in order to insure that appropriate teaching staff members are prepared to teach the education program in each grade in each school district.

b. Upon completion of the initial inservice training program, the Commissioner of Education shall insure that programs and workshops that reflect the most current information on substance abuse are prepared and are made available to teaching staff members at regular intervals.

c. In addition to providing inservice training programs for teaching staff members who will provide instruction on substance abuse in the public schools, the Commissioner of Education shall make these training programs available to such other instructional and supervisory personnel as he deems necessary and appropriate.

5. Section 5 of P.L.1987, c.389 (C.18A:40A-5) is amended to read as follows:

C.18A:40A-5 Loaning of educational materials.

5. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education pursuant to this act for the instruction of public school pupils on the nature and effects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

C.18A:36-32 Fine for permitting cigarette machines on school property.

6. Any person who, acting as an agent or otherwise, permits the operation, installation, or maintenance of coin-operated vending machines that dispense cigarettes on any property used for school purposes which is owned by any school board shall be punished by a fine of \$250.

7. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 226

AN ACT concerning municipal and county budgets and amending
Title 40A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State
of New Jersey*:

1. N.J.S.40A:4-87 is amended to read as follows:

Special items of revenue and appropriations.

40A:4-87. Special items of revenue and appropriations.

The director may approve the insertion of any special item of revenue in the budget of any local unit when such item shall have been made available by any public or private funding source and the amount thereof shall not have been determined at the time of the adoption of the budget, and may approve the insertion of an appropriation item of an amount equal to any such special item of revenue making such item of revenue available for expenditure.

A local unit may borrow money and issue its negotiable notes to meet such purpose. Such notes shall be authorized by resolution adopted by the governing body of the local unit and shall be designated as "Special (here insert purpose) Aid Notes".

Such notes shall mature not later than three months from their date and may be renewed from time to time until the end of the third month after the purpose for which the appropriation was made shall have been completed, or until the end of 31 days after the receipt in full by such local unit of all moneys anticipated from grants-in-aid or other sources for such purpose, whichever shall be later.

Any such notes that shall remain unpaid at the close of the first full fiscal year after the purpose shall have been completed shall be included in the budget of the then next succeeding fiscal year as an item of appropriation for the payment thereof. The provisions of this chapter relating to tax anticipation notes shall apply to such notes.

2. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 227

AN ACT concerning certain medical services under workers' compensation insurance and amending R.S.34:15-36.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.34:15-36 is amended to read as follows:

Definitions.

34:15-36. "Willful negligence" within the intent of this chapter shall consist of (1) deliberate act or deliberate failure to act, or (2) such conduct as evidences reckless indifference to safety, or (3) intoxication, operating as the proximate cause of injury, or (4) unlawful use of a controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.).

"Employer" is declared to be synonymous with master, and includes natural persons, partnerships, and corporations; "employee" is synonymous with servant, and includes all natural persons, including officers of corporations, who perform service for an employer for financial consideration, exclusive of casual employments, which shall be defined, if in connection with the employer's business, as employment the occasion for which arises by chance or is purely accidental; or if not in connection with any business of the employer, as employment not regular, periodic or recurring; provided, however, that forest fire wardens and forest firefighters employed by the State of New Jersey shall, in no event, be deemed casual employees.

Employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall terminate when the employee leaves the employer's place of employment, excluding areas not under the control of the employer; provided, however, when the employee is required by the employer to be away from the employer's place of employment, the employee shall be deemed to be in the course of employment when the employee is engaged in the direct performance of duties assigned or directed by the employer; but the employment of employee paid travel time by an employer for time spent traveling to and from a job site or of any employee who utilizes an employer authorized vehicle shall commence and terminate with the time spent traveling to and from a job site or the authorized operation of a vehicle on business authorized by the employer. Travel by a policeman, fire-

man, or a member of a first aid or rescue squad, in responding to and returning from an emergency, shall be deemed to be in the course of employment.

Employment shall also be deemed to commence when an employee is traveling in a ridesharing arrangement between his or her place of residence or terminal near such place and his or her place of employment, if one of the following conditions is satisfied: the vehicle used in the ridesharing arrangement is owned, leased or contracted for by the employer, or the employee is required by the employer to travel in a ridesharing arrangement as a condition of employment.

“Disability permanent in quality and partial in character” means a permanent impairment caused by a compensable accident or compensable occupational disease, based upon demonstrable objective medical evidence, which restricts the function of the body or of its members or organs; included in the criteria which shall be considered shall be whether there has been a lessening to a material degree of an employee’s working ability. Subject to the above provisions, nothing in this definition shall be construed to preclude benefits to a worker who returns to work following a compensable accident even if there be no reduction in earnings. Injuries such as minor lacerations, minor contusions, minor sprains, and scars which do not constitute significant permanent disfigurement, and occupational disease of a minor nature such as mild dermatitis and mild bronchitis shall not constitute permanent disability within the meaning of this definition.

“Disability permanent in quality and total in character” means a physical or neuropsychiatric total permanent impairment caused by a compensable accident or compensable occupational disease, where no fundamental or marked improvement in such condition can be reasonably expected.

Factors other than physical and neuropsychiatric impairments may be considered in the determination of permanent total disability, where such physical and neuropsychiatric impairments constitute at least 75% or higher of total disability.

“Ridesharing” means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. This term shall include such ridesharing arrangements known as carpools and vanpools.

“Medical services, medical treatment, physicians’ services and physicians’ treatment” shall include, but not be limited to, the services which a chiropractor is authorized by law to perform and which are authorized by an employer pursuant to the provisions of R.S.34:15-1 et seq.

2. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 228

AN ACT concerning sexual assault and amending N.J.S.2C:1-6, N.J.S.2C:14-1 and N.J.S.2C:14-2.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.2C:1-6 is amended to read as follows:

Time limitations.

2C:1-6. Time Limitations. a. A prosecution for any offense set forth in N.J.S.2C:11-3 or N.J.S.2C:11-4 may be commenced at any time.

b. Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitations:

(1) A prosecution for a crime must be commenced within five years after it is committed;

(2) A prosecution for a disorderly persons offense or petty disorderly persons offense must be commenced within one year after it is committed;

(3) A prosecution for any offense set forth in 2C:27-2, 2C:27-4, 2C:27-6, 2C:27-7, 2C:29-4, 2C:30-2, 2C:30-3, or any attempt or conspiracy to commit such an offense, must be commenced within seven years after the commission of the offense;

(4) A prosecution for an offense set forth in N.J.S.2C:14-2 or N.J.S.2C:14-3 or N.J.S.2C:24-4, when the victim at the time of the offense is below the age of 18 years, must be commenced within five years of the victim’s attaining the age of 18.

c. An offense is committed either when every element occurs or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

d. A prosecution is commenced for a crime when an indictment is found and for a nonindictable offense when a warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay. Nothing contained in this section, however, shall be deemed to prohibit the downgrading of an indictable offense to a nonindictable offense at any time if the indictable offense was filed within the statute of limitations applicable to indictable offenses.

e. The period of limitation does not run during any time when a prosecution against the accused for the same conduct is pending in this State.

f. The limitations in this section shall not apply to any person fleeing from justice.

g. Except as otherwise provided in this code, no civil action shall be brought pursuant to this code more than five years after such action accrues.

2. N.J.S.2C:14-1 is amended to read as follows:

Definitions.

2C:14-1. Definitions. The following definitions apply to this chapter:

a. "Actor" means a person accused of an offense proscribed under this act;

b. "Victim" means a person alleging to have been subjected to offenses proscribed by this act;

c. "Sexual penetration" means vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the actor or upon the actor's instruction. The depth of insertion shall not be relevant as to the question of commission of the crime;

d. "Sexual contact" means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of degrading or humiliating the victim

or sexually arousing or sexually gratifying the actor. Sexual contact of the actor with himself must be in view of the victim whom the actor knows to be present;

e. "Intimate parts" means the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock or breast of a person;

f. "Severe personal injury" means severe bodily injury, disfigurement, disease, incapacitating mental anguish or chronic pain;

g. "Physically helpless" means that condition in which a person is unconscious or is physically unable to flee or is physically unable to communicate unwillingness to act;

h. "Mentally defective" means that condition in which a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent;

i. "Mentally incapacitated" means that condition in which a person is rendered temporarily incapable of understanding or controlling his conduct due to the influence of a narcotic, anesthetic, intoxicant, or other substance administered to that person without his prior knowledge or consent, or due to any other act committed upon that person which rendered that person incapable of appraising or controlling his conduct;

j. "Coercion" as used in this chapter shall refer to those acts which are defined as criminal coercion in section 2C:13-5(1), (2), (3), (4), (6) and (7).

3. N.J.S.2C:14-2 is amended to read as follows:

Sexual assault.

2C:14-2. Sexual assault. a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

- (1) The victim is less than 13 years old;
- (2) The victim is at least 13 but less than 16 years old; and
 - (a) The actor is related to the victim by blood or affinity to the third degree, or
 - (b) The actor has supervisory or disciplinary power over the vic-

tim by virtue of the actor's legal, professional, or occupational status, or

(c) The actor is a foster parent, a guardian, or stands in loco parentis within the household;

(3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;

(4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;

(5) The actor is aided or abetted by one or more other persons and either of the following circumstances exists:

(a) The actor uses physical force or coercion, or

(b) The victim is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated;

(6) The actor uses physical force or coercion and severe personal injury is sustained by the victim.

Aggravated sexual assault is a crime of the first degree.

b. An actor is guilty of sexual assault if he commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

c. An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury;

(2) The victim is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated;

(3) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status;

- (4) The victim is at least 16 but less than 18 years old and:
 - (a) The actor is related to the victim by blood or affinity to the third degree; or
 - (b) The actor has supervisory or disciplinary power over the victim; or
 - (c) The actor is a foster parent, a guardian, or stands in loco parentis within the household;
- (5) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim.

Sexual assault is a crime of the second degree.

4. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 229

AN ACT concerning criminal history records checks of certain final candidates for employment in certain nonpublic schools.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.18A:6-4.13 Nonpublic school employment candidates to demonstrate no criminal history.

1. Any nonpublic school may require all final candidates for employment as a teacher, substitute teacher, teacher aide, a school physician, school nurse, custodian, maintenance worker, bus driver, security guard, secretary or clerical worker or for any other position which involves regular contact with pupils, to demonstrate that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from employment in the public schools of this State pursuant to the provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.). Application of this requirement by a nonpublic school shall be consistent and non-discriminatory among candidates.

As used in this act, "nonpublic school" means an elementary or secondary school within the State, other than a public school, offering

education in grades K-12 or any combination thereof, wherein a child may legally fulfill compulsory school attendance requirements.

C.18A:6-4.14 Criminal history record check.

2. An applicant for employment or service in any of the positions covered by this act shall submit to the Commissioner of Education his or her name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency. The commissioner is hereby authorized to exchange fingerprint data with and to receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. No criminal history record check shall be performed pursuant to this act unless the applicant shall have furnished his or her written consent to such a check. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check.

C.18A:6-4.15 Determination of qualification.

3. The commissioner shall apply the same requirements, procedures and standards and shall proceed in the same manner as is prescribed in P.L.1986, c.116 (C.18A:6-7.1 et seq.) for determining whether the applicant would be qualified or disqualified for employment in the public schools and shall inform the applicant of his determination in writing. It shall be the applicant's responsibility to present a copy of the commissioner's letter to the nonpublic school which requires the criminal history records check as a condition of employment.

C.18A:6-4.16 Records to be kept no longer than one year.

4. The commissioner may maintain the records on a candidate for no longer than one year from the date of a determination as to the candidate's qualification or disqualification for employment with an employer.

C.18A:6-4.17 Initial criminal history record check for substitute employees.

5. An individual employed in any substitute capacity or position by a nonpublic school which requires a criminal history record check, and who is rehired annually by that school, shall only be required to undergo a criminal history record check as authorized pursuant to this act upon initial employment.

6. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 230

AN ACT concerning birth certificates and amending R.S.26:8-28.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.26:8-28 is amended to read as follows:

Birth certificate required; recording of Social Security numbers of parents.

26:8-28. a. Within five days after each birth, there shall be filed with the local registrar of the district in which the birth occurred a certificate of the birth filled out with durable black or blue ink in a legible manner.

b. In accordance with the provisions of the federal "Family Support Act of 1988," Pub.L.100-485, the local registrar shall record the Social Security numbers of both parents on a separate form provided or approved by the State registrar pursuant to subsection c. of R.S.26:8-24, and the State registrar shall transmit those numbers to the State IV-D agency for the enforcement of child support orders in effect in the State. For the purposes of this subsection, "State IV-D agency" means the agency in the Department of Human Services designated to administer the Title IV-D Child Support Program.

c. The State registrar shall require each parent to provide his Social Security number in accordance with procedures established by the State registrar. The Social Security numbers furnished pursuant to this section shall be used exclusively for child support enforcement purposes.

2. This act shall take effect on November 1, 1990.

Approved December 29, 1989.

CHAPTER 231

AN ACT concerning the adoption of the provisions of the Police and Firemen's Retirement System by certain municipalities and supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Notwithstanding any other law to the contrary, the governing

body of any municipality which: a. has a population greater than 8,000 and less than 9,000 according to the 1980 federal decennial census and which is located in a county of the third class with a population greater than 85,000 and less than 90,000 according to the 1980 federal decennial census; or b. has a population greater than 12,500 and less than 13,000 according to the 1980 federal decennial census and which is located in a county of the second class with a population greater than 470,000 and less than 500,000 according to the 1980 federal decennial census, may, by ordinance, adopt the provisions of P.L.1944, c.255 (C.43:16A-1 et seq.) provided that the adoption is by a two-thirds vote of the governing body. If the governing body adopts such an ordinance, the provisions of P.L.1944, c.255 (C.43:16A-1 et seq.) shall take effect in that municipality on January 1 next following the date on which the ordinance was adopted. Upon the adoption of the ordinance, the clerk of the municipality shall immediately notify the board of trustees of the Police and Firemen's Retirement System of New Jersey of that adoption.

The normal contribution under subsection (4) of section 15 of P.L.1944, c.255 (C.43:16A-15), the accrued liability contribution under subsection (9) of section 15 of P.L.1944, c.255 (C.43:16A-15), any liability for prior service of transferred members, and any other costs applicable to a municipality pursuant to the adoption of an ordinance under this act shall be applicable to, and shall be included in the budget of, the municipality.

2. All costs associated with the accrued liability contribution under subsection (9) of section 15 of P.L.1944, c.255 (C.43:16A-15), any liability for prior service of transferred members, and any other costs applicable to a municipality which adopts the provisions of P.L.1944, c.255 (C.43:16A-1 et seq.) by ordinance shall be exempt from the limitations on increases in final appropriations imposed pursuant to P.L.1976, c.68 (C.40A:4-45.1 et seq.).

3. This act shall take effect immediately and shall expire on December 31, 1991.

Approved December 29, 1989.

CHAPTER 232

AN ACT concerning paging devices and supplementing chapter 33 of Title 2C of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.2C:33-18 Remotely activated paging device prohibited for those under 18 unless authorized by a physician or owner or operator of a legal commercial enterprise.

1. a. A person shall not sell, lease, give or otherwise provide a remotely activated paging device to a person under 18 years of age, except as permitted in subsection b. of this section. A person who knowingly violates this subsection shall be guilty of a disorderly persons offense.

b. Subsection a. shall not apply if a remotely activated paging device is sold, leased, given or otherwise provided to a person under 18 years of age who is authorized to possess a paging device (1) by a physician or surgeon licensed pursuant to P.L.1938, c.277 (C.45:9-1 et seq.) during a course of a medical treatment or care or (2) by an owner or operator of a legal commercial enterprise during the hours of employment. A copy of a statement by the licensed physician or surgeon or the owner or operator of the legal commercial enterprise authorizing the possession of the paging device shall be in the possession of the person who is under 18 years of age at all times while that person is in possession of the remotely activated paging device pursuant to the exemptions in this subsection.

The person selling, leasing, giving or otherwise providing a remotely activated paging device to a person under 18 years of age, who is not the employer of that person, shall at that time acquire and retain a copy of a statement by the licensed physician or surgeon or the operator of the legal commercial enterprise authorizing the possession of the remotely activated paging device by the person who is under 18 years of age.

Any paging device possessed in violation of this subsection may be seized by the State or any law enforcement officer and shall be subject to forfeiture pursuant to the provisions of N.J.S.2C:64-1 et seq.

C.2C:33-19 Possession of remotely activated paging devices on school property is disorderly persons offense.

2. Any person enrolled as a student of an elementary or secondary school, who knowingly and without the express written permission of the school board, its delegated authority, or any school principal,

brings or possesses any remotely activated paging device on any property used for school purposes, at any time and regardless of whether school is in session or other persons are present, is guilty of a disorderly persons offense. No permission to bring or possess any remotely activated paging device on school property shall be granted unless and until a student or parent shall have established to the satisfaction of the school authorities a reasonable basis for the possession of the device on school property.

C.2C:33-20 Use of remotely activated paging device during commission of certain crimes is a crime of fourth degree.

3. A person is guilty of a crime of the fourth degree if he uses a remotely activated paging device while engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit any crime or offense enumerated in chapter 35 or 36 of Title 2C of the New Jersey Statutes.

4. This act shall take effect immediately.

Approved December 29, 1989.

CHAPTER 233

AN ACT directing the Commissioner of Environmental Protection to lease up to five acres of public land to the Popcorn Park Zoo.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Within six months or within any other period as the parties may otherwise mutually agree upon, the Commissioner of Environmental Protection shall lease for a nominal fee, according to the provisions of P.L.1958, c.93 (C.23:8A-1 et seq.), up to five acres of public hunting and fishing grounds or game refuge adjoining the Popcorn Park Zoo to the zoo, the extent of land to be leased to be determined by Popcorn Park Zoo but the location to be determined by the Director of the Division of Fish, Game and Wildlife. The lease shall be renewed annually upon the recommendation of the commissioner. The land shall return to, and remain under the authority and control of, the State if the commissioner terminates or does not renew the lease for any reason, or determines that the zoo is no longer in operation or the use of the land by the zoo is no longer in the public interest.

2. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 234

AN ACT concerning establishments using artificial suntan sources.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.26:2D-81 Findings, declarations.

1. The Legislature finds and declares that:

Tanning facilities are not regulated by the State of New Jersey and the number of tanning facilities is rapidly growing throughout the State; various physical complications can arise from frequent and unsupervised use of these tanning facilities such as, overexposure to ultraviolet radiation which can cause severe sunburn and eye injury including cataracts and corneal damage; repeated exposure to ultraviolet light in tanning facilities can also cause premature aging of the skin, skin cancers and abnormal skin sensitivity in persons who may be using certain drugs including some tranquilizers, diuretics, antibiotics, high blood pressure medicines and birth control pills.

It is, therefore, desirable that citizens are protected against any problems which may result from improperly functioning equipment in tanning facilities, and given the potential for harm that is presented by establishments using artificial suntan sources, it is imperative that effective minimum safety standards in this health area be established.

C.26:2D-82 "Tanning facility" defined.

2. As used in this act: "tanning facility" means any location, place, area, structure or business that, either as a sole service or in conjunction with other services, provides patrons with access to sunlamps, ultraviolet lamps or other equipment intended to induce skin tanning through the irradiation of any part of the human body for cosmetic or nonmedical purposes.

C.26:2D-83 Minimum safety standards for tanning facilities established.

3. The Commissioner of Health, in consultation with the Department of Environmental Protection, shall, by regulation, establish

minimum safety standards for tanning facilities. The standards shall include, but not be limited to:

- a. Establishment of a maximum safe time of exposure to radiation and a maximum safe temperature at which tanning devices may be operated;
- b. A requirement that a patron at a tanning facility wear protective eye glasses when using tanning equipment and that a patron be supervised as to the length of time the patron uses tanning equipment at the facility;
- c. A requirement that the facility operator post easily legible, permanent warning signs near the tanning equipment which state: "DANGER—ULTRAVIOLET RADIATION FOLLOW ALL INSTRUCTIONS"; and
- d. A requirement that the facility have protective shielding for tanning equipment in the facility.

C.26:2D-84 Compliance with safety standards; certification, periodic inspections.

4. The local board of health in the municipality in which a tanning facility is located shall certify that a facility is in compliance with the safety standards established pursuant to section 3 of this act and shall periodically inspect the facility to ensure continued compliance with the standards.

C.26:2D-85 "Non-Ionizing Radiation Fund" established in Department of Health.

5. There is established in the Department of Health a nonlapsing revolving fund known as the "Non-Ionizing Radiation Fund." The fund shall be credited with all fees collected pursuant to this act. Interest on monies in the fund shall be credited to the fund, and all monies in the fund are appropriated for the purposes of this act.

C.26:2D-86 Tanning facility; annual registration, fee.

6. a. A tanning facility shall register annually with the Department of Health on forms provided by the department and shall pay to the department an annual registration fee.

b. The Department of Health shall establish a registration fee schedule, by regulation, to cover the costs of implementing the provisions of this act, including the costs incurred by local boards of health pursuant to section 4 of this act.

C.26:2D-87 Violations, penalties.

7. A person who violates the provisions of this act is subject to a penalty of \$100 for the first offense and \$200 for each subsequent

offense. The penalty shall be sued for and collected in a court of competent jurisdiction in a summary proceeding in accordance with "the penalty enforcement law," N.J.S.2A:58-1 et seq.

A penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board of health into the treasury of the municipality where the violation occurred.

C.26:2D-88 Rules, regulations.

8. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health, in consultation with the Department of Environmental Protection, shall promulgate rules and regulations necessary to carry out the purposes of this act.

9. This act shall take effect on the 90th day after enactment.

Approved January 2, 1990.

CHAPTER 235

A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L.1987, c.154).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. In addition to the amounts appropriated under P.L.1987, c.154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES	
30 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS	
80 Special Government Services	
83 Services to Veterans	
99-3610 Management and Field	
Services	\$2,000

Special Purpose:

Purchase of MIA-POW flags (\$2,000)*

The amount hereinabove shall be used to purchase MIA-POW flags which shall be made available to veterans' organizations, counties and municipalities.

2. This act shall take effect immediately.

Approved January 2, 1990.

*Reduced by line-item veto of the Governor. See statement following.

Statement to Chapter 235
(Senate Bill No. 2294 (First Reprint))

Pursuant to Article V, Section I, Paragraph 15 of the New Jersey Constitution, I am appending to Senate Bill No. 2294 (First Reprint) at the time of signing it my statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill would provide a \$20,000 supplemental appropriation from the General Fund to the Department of Military and Veterans' Affairs for the requisition and issuance of P.O.W.-M.I.A. flags to counties, municipalities and veterans' organizations. Because the laudable purpose behind this bill has already been substantially accomplished without the commitment of State budgetary resources, I am constrained to withhold my full assent from this bill.

In April 1988, I signed into law P.L.1988, c.16, which requires the display of the P.O.W.-M.I.A. flag below the national ensign at the State House and the principal county and municipal buildings throughout the State. The display of the P.O.W.-M.I.A. flag, which depicts a prisoner's profile against the background of a P.O.W. camp watchtower, is intended to increase the public awareness of the P.O.W.-M.I.A. issue and to gain support for the efforts of the United States government to resolve this matter. This flag is the appropriate symbol of our fervent hope for the return of those still held prisoner and for the fullest possible accounting from the responsible governments of those Americans still listed as missing.

This bill was introduced shortly after P.L.1988, c.16 became effective. It requires the Department of Military and Veterans' Affairs to purchase a supply of P.O.W.-M.I.A. flags for issuance to counties and municipalities that have not yet commenced to fly this flag. Bona fide veterans' organizations would also be authorized to receive a

State-purchased P.O.W.-M.I.A. flag after the initial distribution to counties and municipalities.

I am pleased to report that a recent survey of all counties and of a random sampling of municipalities indicates that there is currently overwhelming compliance with the flag law. Over 95 percent of these governmental entities are proudly flying the P.O.W.-M.I.A. flag. Because of the strong support of county and municipal governments throughout the State, the purpose behind P.L.1988, c.16 has been substantially achieved. Since full compliance with this law can be accomplished without the appropriation of \$20,000 contained in this bill, I have reduced the size of the appropriation to \$2,000, a sum which is sufficient to ensure uniform compliance in each and every county and municipality in the State.

Accordingly, I herewith append the following statement of objections to the sum, or parts thereof, appropriated by this bill:

Page 1, Section 1, Line 19: Delete "\$20,000" insert
"\$2,000"

Page 1, Section 1, Line 21: Delete "\$20,000" insert
"\$2,000"

Respectfully,
Thomas H. Kean
Governor

CHAPTER 236

AN ACT concerning certain solid waste disposal costs, and supplementing P.L.1971, c.198 (C.40A:11-1 et seq.), P.L.1954, c.48 (C.52:34-6 et seq.) and chapter 2 of Title 27 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.40A:11-16.5 Renegotiation of contract to reflect increase in solid waste disposal costs.

1. Any person entering into a contract with a contracting unit pursuant to the provisions of P.L.1971, c.198 (C.40A:11-1 et seq.), which contract requires the contractor to provide for the disposal of

solid waste, shall have the right to renegotiate the contract to reflect any increase in solid waste disposal costs whenever:

a. the increase occurred as a result of compliance with an order issued by the Department of Environmental Protection, in conjunction with the Board of Public Utilities, directing the solid waste be disposed at a solid waste facility other than the facility previously utilized by the person to whom the contract has been awarded; or

b. the increase in solid waste disposal costs occurred as a result of lawful increases in the rates, fees or charges imposed on the disposal of solid waste at the solid waste facility utilized by the person to whom the contract has been awarded.

C.52:34-13.1 Renegotiation of contract with State or independent State authority.

2. Any person entering into a contract with the State pursuant to the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), or with an independent State authority, which contract requires the contractor to provide for the disposal of solid waste, shall have the right to renegotiate the contract to reflect any increase in solid waste disposal costs whenever:

a. the increase occurred as a result of compliance with an order issued by the Department of Environmental Protection, in conjunction with the Board of Public Utilities, directing the solid waste be disposed at a solid waste facility other than the facility previously utilized by the person to whom the contract has been awarded; or

b. the increase in solid waste disposal costs occurred as a result of lawful increases in the rates, fees or charges imposed on the disposal of solid waste at the solid waste facility utilized by the person to whom the contract has been awarded.

For the purposes of this section, "independent State authority" means an authority, board, bureau, office, commission, committee, council, instrumentality or agency of the State, which is a public body corporate and politic established pursuant to law, having the power to sue and be sued and to issue bonds, but shall not include the New Jersey Transit Corporation established pursuant to P.L.1979, c.150 (C.27:25-1 et seq.).

C.27:2-9 Renegotiation of contract with Commissioner of Transportation.

3. Any person awarded a contract by the Commissioner of Transportation for the construction, reconstruction or resurfacing of any State, county or municipal road, street or highway, or portion thereof, which contract requires the contractor to provide for the disposal of

solid waste, shall have the right to renegotiate the contract to reflect any increase in solid waste disposal costs whenever:

a. the increase occurred as a result of compliance with an order issued by the Department of Environmental Protection, in conjunction with the Board of Public Utilities, directing the solid waste be disposed at a solid waste facility other than the facility previously utilized by the person to whom the contract has been awarded; or

b. the increase in solid waste disposal costs occurred as a result of lawful increases in the rates, fees or charges imposed on the disposal of solid waste at the solid waste facility utilized by the person to whom the contract has been awarded.

4. This act shall take effect immediately, and shall apply to any contract entered into prior to, on, or after the effective date of this act.

Approved January 2, 1990.

CHAPTER 237

AN ACT concerning the Passaic Valley Sewerage District and amending P.L.1976, c.125.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 1 of P.L.1976, c.125 (C.58:14-35) is amended to read as follows:

C.58:14-35 Rules and regulations; civil penalty for violations.

1. The commissioners shall have the power to adopt rules and regulations in conformity with requirements imposed by the federal government as a condition of federal assistance, which shall be binding upon all contracting municipalities and lessees delivering or discharging sewage into the system of the commissioners. Such rules and regulations may include pretreatment requirements, requirements for the adoption of sewer use ordinances and of user charge and industrial cost recovery systems in accordance with applicable federal statutes and the implementing regulations promulgated by the U.S. Environmental Protection Agency, and requirements concerning infiltration-inflow, as well as such other rules and regulations as the commissioners may deem to be necessary or proper for the

operation of the system or to apply for and receive financial assistance from the federal government or any agency thereof for the construction, acquisition or rehabilitation of waste treatment works as part of the system, and to enter any agreement with the federal government for the purpose of obtaining such financial assistance.

Any person who violates any provision of any rule or regulation adopted by the commissioners pursuant to this section shall be subject to a civil penalty of up to \$50,000.00 per day for each violation, and each day's continuance of the violation shall constitute a separate violation. Penalties imposed under this section may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The commissioners may institute a civil action in the Superior Court for injunctive relief to prevent or restrain any act or activity which adversely affects or threatens to adversely affect public health or safety or the operation of the system.

2. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 238

AN ACT concerning eligibility for participation in the Animal Population Control Program and amending P.L.1983, c.172.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 3 of P.L.1983, c.172 (C.4:19A-2) is amended to read as follows:

C.4:19A-2 Eligibility for participation in Animal Population Control Program.

3. In order to be eligible to participate in the program, an owner of a dog or cat shall be eligible for, and participate in, at least one of the following:

a. The Food Stamp Program authorized by Title XIII of the Food and Agriculture Act of 1977, Pub.L.95-113 (7 U.S.C. § 2011 et seq.);

b. The Supplemental Security Income Program established pursuant to Title XVI of the Social Security Act, 42 U.S.C. § 1381 et seq.;

c. The program for aid to families with dependent children, pursuant to P.L.1959, c.86 (C.44:10-1 et seq.);

d. The program for general public assistance, pursuant to the provisions of the "General Public Assistance Law," P.L.1947, c.156 (C.44:8-107 et seq.);

e. The program of medical assistance pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

f. The program of "Pharmaceutical Assistance to the Aged and Disabled," established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.);

g. The rental assistance program authorized pursuant to section 8 of the United States Housing Act of 1937 as added by the Housing and Community Development Act of 1974, Pub.L.93-383 (42 U.S.C. § 1437(f));

h. The "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.); or

i. The "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.).

A resident of New Jersey who owns a dog or cat shall also be eligible to participate in the program if the owner: (1) submits to a veterinarian participating in the program proof, in the form of a certificate of adoption, that the dog or cat was adopted from a New Jersey licensed animal shelter, a New Jersey municipal, county, or regional pound, or a New Jersey holding and impoundment facility that contracts with New Jersey municipalities, or proof that the dog or cat was adopted through a non-profit corporation operating an animal adoption referral service in New Jersey and whose holding facility is licensed in accordance with State and municipal law; and, in the case of a dog, proof that the dog is duly licensed pursuant to State and municipal law; and (2) pays a \$20 fee, to be deposited in the fund. The Department of Health may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement this amendatory act.

2. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 239

AN ACT regulating the sale of real property located outside of New Jersey by developers, supplementing Title 45 of the Revised Statutes and repealing P.L.1975, c.235.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.45:15-16.27 Short title.

1. This act shall be known and may be cited as the "Real Estate Sales Full Disclosure Act."

C.45:15-16.28 Definitions.

2. As used in this act:

"Advertising" means the publication, or causing to be published, of any information offering for sale, or for the purpose of causing or inducing any other person to purchase or acquire, an interest in the title to subdivided lands, including the land sales contract to be used and any photographs or drawings or artist's representation of physical conditions or facilities on the property existing or to exist by means of any:

- (1) Newspaper or periodical;
- (2) Radio or television broadcast;
- (3) Written or printed or photographic matter produced by any duplicating process producing 10 copies or more;
- (4) Billboards or signs;
- (5) Display of model homes or units;
- (6) Material used in connection with the disposition or offer of subdivided lands by radio, television, telephone or any other electronic means; or
- (7) Material used by subdividers or their agents to induce prospective purchasers to visit the subdivision; particularly vacation certificates which require the holders of those certificates to attend or submit to a sales presentation by a subdivider or its agents.

"Advertising" does not mean: stockholder communications such as annual reports and interim financial reports, proxy materials, registration statements, securities prospectuses, applications for listing securities on stock exchanges, or similar documents; prospectuses, property reports, offering statements, or other documents re-

quired to be delivered to a prospective purchaser by an agency of any other state or the federal government; all communications addressed to and relating to the account of any person who has previously executed a contract for the purchase of the subdivider's lands except when directed to the sale of additional lands.

"Blanket encumbrance" means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision, except that term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority.

"Broker" or "salesperson" means any person who performs within this State as an agent or employee of a subdivider any one or more of the services or acts as set forth in this act, and includes any real estate broker or salesperson licensed pursuant to R.S.45:15-1 et seq. or any person who purports to act in any such capacity.

"Commission" means the New Jersey Real Estate Commission.

"Common promotional plan" means any offer for the disposition of lots, parcels, units or interests of real property by a single person or group of persons acting in concert, where those lots, parcels, units or interests are contiguous, or are known, designated or advertised as a common entity or by a common name regardless of the number of lots, parcels, units or interests covered by each individual offering.

"Disposition" means the sale, lease, assignment, award by lottery, or any other transaction concerning a subdivision if undertaken for gain or profit.

"Notice" means a communication by mail from the commission executed by its secretary or other duly authorized officer. Notice to subdividers shall be deemed complete when mailed to the subdivider's address currently on file with the commission.

"Offer" means every inducement, solicitation or attempt to encourage a person to acquire an interest in a subdivision if undertaken for gain or profit.

"Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

"Purchaser" means a person who acquires or attempts to acquire or succeeds to an interest in a subdivision.

"Time-share estates" includes both "fee simple" and "right to use" time-share interests and means:

(1) An "interval estate" meaning a combination of an estate for years in a lot, parcel or unit, during the term of which title rotates among the time-share owners, coupled with a vested undivided fee simple interest in the remainder in that unit as established by the declaration or deed creating the interval estate; or

(2) A "time-span estate" meaning a combination of an undivided interest in a present estate in fee simple in a lot, parcel or unit established by the declaration or deed creating the time-span estate, coupled with the exclusive right to possession and occupancy of the parcel or unit during a regularly recurring period; or

(3) A "vacation license" meaning the exclusive right to possession and occupancy of a lot, unit or parcel during a regularly recurring period established by club membership, lease or license.

"Subdivider" or "developer" means any owner of subdivided lands or the agent of that owner who offers the subdivided lands for disposition.

"Subdivision" and "subdivided lands" mean any land situated outside the State of New Jersey whether contiguous or not, if one or more lots, parcels, units or interests are offered as a part of a common promotional plan of advertising and sale and expressly means and includes such units or interests commonly referred to as a "condominium," defined in the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.). In addition to condominiums, this definition shall also specifically include, but shall not be limited to, any form of homeowners association, any housing cooperative, any community trust, or other trust device and any form of time-sharing.

C.45:15-16.29 Bureau of Subdivided Land Sales Control continued.

3. The Bureau of Subdivided Land Sales Control within the Division of the New Jersey Real Estate Commission in the Department of Insurance, established pursuant to section 3 of P.L.1975, c.235 (C.45:15-16.5), shall continue.

C.45:15-16.30 Conditions for disposition of subdivided lands.

4. Unless the subdivided lands or the transaction is exempt pursuant to section 6 of this act:

a. No person may offer, dispose or participate in this State in the disposition of subdivided lands or of any interest in subdivided lands unless in accordance with the provisions of this act.

b. No person may dispose or participate in the disposition of any interest in subdivided lands unless a current public offering statement, disclosing fully all information required in section 12 of this act, is delivered to the purchaser and the purchaser is afforded a reasonable opportunity to examine the public offering statement prior to the disposition.

C.45:15-16.31 Subdivisions, subdivided lands subject to this act.

5. Disposition of subdivision or subdivided lands are subject to this act if:

a. Any offer or disposition of subdivided lands is made in this State; or

b. Any offer of subdivided land originating outside this State is directed by the subdivider or his agent to a person or resident within this State.

C.45:15-16.32 Methods of disposition not applicable to this act.

6. a. Unless the method of disposition is adopted for the purpose of evasion of this act, the provisions of this act are not applicable to offers or dispositions of an interest in a subdivision:

(1) By an owner for his own account in a single or isolated transaction;

(2) Wholly for industrial or commercial purposes;

(3) Pursuant to court order;

(4) By any governmental agency;

(5) As cemetery lots or interests;

(6) Of less than 100 lots, parcels, units or interests; but, this exemption shall not apply to condominiums, cooperatives, time-shares, retirement communities and offers or dispositions by entities comprised of or acting on behalf of the owners of other units in the subdivision, including, but not limited to entities designated as homeowners associations, regardless of the number of lots, parcels, units or interests offered or disposed of;

(7) Where the common elements or interests, which would otherwise subject the offering to this act, are limited to the provision of unimproved, unencumbered open space, except where registration is

required by the "Interstate Land Sales Full Disclosure Act," Pub.L.90-448 (15 U.S.C. § 1701 et seq.) with the Office of Interstate Land Sales Registration, in the Department of Housing and Urban Development; or

(8) In a development comprised wholly of rental units, where the relationship created is one of landlord and tenant; but this exemption shall not apply to time-shares, regardless of the manner in which an interest in such a time-share subdivision is evidenced.

b. Unless the method of disposition is adopted for the purpose of evasion of this act, the provisions of this act are not applicable to:

(1) Offers or dispositions of evidences of indebtedness secured by a mortgage or deed of trust of real estate;

(2) Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any State or federal statute;

(3) Offers or dispositions of securities currently registered with the Bureau of Securities in the Department of Law and Public Safety; or

(4) Offers or dispositions of any interest in oil, gas or other minerals or any royalty interest therein if the offers or dispositions of such interests are regulated as securities by federal law or by the State Bureau of Securities.

c. The commission may, from time to time, pursuant to any rules and regulations promulgated pursuant to this act, exempt from any of the provisions of this act any subdivision or any lots in a subdivision, if it finds that the enforcement of this act with respect to that subdivision or the lots therein, is not necessary in the public interest, or required for the protection of purchasers, by reason of the small amount involved or the limited character of the offering.

C.45:15-16.33 Notice of filing; registration; rejection.

7. a. Upon the filing of an application for registration at the offices of the commission, naming the brokers licensed as real estate brokers pursuant to R.S.45:15-1 et seq. who are the authorized representatives of the subdivider, and accompanied by the proper registration fee in the proper form, and a statement of record as provided for in section 10 of this act, and the proposed public offering statement, the commission shall issue a notice of filing to the applicant. Within 90 days from the date of the notice of filing, the commission

shall enter an order registering the subdivision or subdivided lands or rejecting the registration. If no order of rejection is entered within 90 days from the date of notice of filing, the subdivisions or subdivided lands shall be deemed registered unless the applicant has consented in writing to a delay.

b. If the commission affirmatively determines upon inquiry and examination that the requirements of section 9 of this act have been met, it shall enter an order registering the subdivision or subdivided lands and shall designate the form of the public offering statement.

c. If the commission determines upon inquiry and examination that any of the requirements of section 9 of this act have not been met, the commission shall notify the applicant that the application for registration must be corrected in the particulars specified within 30 days from the date the notice is received by the applicant. These findings shall be the result of the commission's preliminary inquiry and examination and no hearing shall be required as the basis for those findings. The receipt of a written request for a hearing shall stay the order of rejection until a hearing has been held and a determination has been made.

C.45:15-16.34 Initial registration fee; inspection fee; consolidated filing fee.

8. a. (1) The fee for an initial registration shall be \$500 plus \$35 for each lot, parcel, unit or interest which fee shall not exceed \$3,000. The initial registration shall be valid for a period of one year from the date of approval of the registration. If the fees are insufficient to defray the cost of rendering services required by the provisions of this act, the commission may, by regulation, establish a revised fee schedule. Any revised fee schedule shall assure that the fees collected reasonably cover, but do not exceed, the expenses of administering the provisions of this act.

(2) Annual renewal of registration shall be made in accordance with the provisions of section 14 of this act.

(3) Any current registration filed with and approved by the commission pursuant to the provisions of P.L.1975, c.235 (C.45:15-16.3 et seq.) prior to the date of enactment of this act shall be exempt from initial registration under this act.

b. The application for registration shall be made on forms prescribed by the commission and shall be accompanied by the appropriate filing fee. As provided in subsection f. of section 15 of this act, the commission may determine, at its discretion, that an onsite investigation or inspection is required. The commission shall

advise the registrant of the amount of the cost of travel from New Jersey to the location of the subdivided lands and return and any additional expenses of an inspection, which shall be the amount of the inspection fee. All inspection fees shall be accounted for to the applicant.

c. The fee for a consolidated filing, filed pursuant to section 13 of this act, shall be the same as set forth in subsection a. of this section.

C.45:15-16.35 Examination by commission.

9. Upon receipt of an application for registration in proper form, accompanied by a statement of record, the commission shall initiate an examination to determine that:

a. The subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and when appropriate, that release clauses, conveyances in trust or other safeguards have been provided;

b. There is reasonable assurance that all proposed improvements will be completed as represented;

c. The advertising material and the general promotional plan are not false, misleading, or discriminatory and comply with the standards prescribed by the commission in its rules and regulations and afford full and fair disclosure;

d. The subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime or civil offense involving land dispositions or any aspect of the land sales business in this State, the United States, or any other state or foreign country; and that the developer has not been subject to any permanent injunction or final administrative order restraining a false or misleading promotional plan involving real property dispositions, the seriousness of which in the opinion of the commission warrants the denial of registration; and

e. The public offering statement requirements of section 12 of this act have been satisfied.

C.45:15-16.36 Contents of statement of record.

10. The statement of record shall contain the information and be accompanied by the documents specified as follows:

a. The name and address of each person having an interest in the lots in the subdivision to be covered by the statement of record and the extent of that interest;

b. A legal description of, and a statement of the total area included in, the subdivision and a statement of the topography, together with a map showing the subdivision proposed and the dimensions of the lots, parcels, units, or interests to be covered by the statement of record and their relation to existing streets, roads and other improvements. The map shall be drawn to scale, signed and sealed, by a licensed professional engineer or land surveyor;

c. A statement of the condition of the title to the land comprising the subdivision, including all encumbrances and deed restrictions and covenants applicable thereto;

d. A statement of the general terms and conditions proposed to dispose of the lots in the subdivision;

e. A statement of the present condition of access to the subdivision, the existence of any unusual conditions relating to noise or safety, which affect the subdivision and are known or should reasonably be known to the developer, the availability of sewage disposal facilities and other public utilities, including water, electricity, gas, and telephone facilities, in the subdivision to nearby municipalities, and the nature of any improvements to be installed by the developer and his estimated schedule for completion;

f. A statement as to whether the property or any portion thereof is regularly or periodically subject to natural forces that would tend to adversely affect the use or enjoyment of the property and whether the property or any portion thereof is located in a federally designated flood hazard area;

g. In the case of any subdivision or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the persons bound, to fulfill obligations under the instruments creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality;

h. (1) Copy of its articles of incorporation, with all amendments thereto, if the developer is a corporation; (2) copies of all instruments by which the trust is created or declared, if the developer is a trust; (3) copies of its articles of partnership or association and all other papers pertaining to its organization, if the developer is a partnership, unincorporated association, joint stock company, or any other form of organization; and (4) if the purported holder of legal title is a person other than the developer, copies of the appropriate documents required pursuant to this subsection for that person;

- i. Copies of the deed or other instrument establishing title to the subdivision in the developer or other person and copies of any instrument creating a lien or encumbrance upon the title of developer or other person or copies of the opinion of counsel in respect to the title to the subdivision in the developer or other person or companies of the title insurance policy guaranteeing that title;
- j. Copies of all forms of conveyance to be used in selling or leasing lots to purchasers;
- k. Copies of instruments creating easements or other restrictions;
- l. Certified and uncertified financial statements of the developer as required by the commission;
- m. Copies of any management contract, lease of recreational areas, or similar contract or agreement affecting the use, maintenance, or access of all or any part of the subdivision;
- n. A statement of the status of compliance with the requirements of all laws, ordinances, regulations, and other requirements of governmental agencies, including the federal government, having jurisdiction over the premises;
- o. The developer shall immediately report any material changes in the information contained in an application for registration. The term "material changes" shall be further defined by the commission in its regulations; and
- p. Any other information and any other documents and certification as the commission may require as being reasonably necessary for the protection of purchasers.

C.45:15-16.37 Information available to public.

11. The information contained in any statement of record and any additions or corrections required by section 10 of this act shall be made available to the public under regulations promulgated by the commission pursuant to this act and copies shall be furnished to every applicant at a reasonable charge prescribed by the commission.

C.45:15-16.38 Public offering statement; not to be used for promotional purposes; amendments to; right to cancel.

12. a. A public offering statement shall disclose fully and accurately the physical characteristics of the subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting those lands. The proposed public offering statement submitted to the commission shall be in a form prescribed by the rules and regulations promulgated pursuant to this act and shall include the following:

(1) The name and principal address of the developer and his authorized New Jersey representative who shall be a licensed real estate broker licensed to maintain offices within this State;

(2) A general description of the subdivision or subdivided lands stating the total number of lots, parcels, units or interests in the offering;

(3) A summary of the terms and conditions of any management contract, lease of recreational areas, or similar contract or agreement affecting the use, maintenance, or access of all or any part of the subdivision or subdivided lands, the effect of each agreement upon a purchaser, and a statement of the relationship, if any, between the developer or subdivider and the managing agent or firm;

(4) The significant terms of any encumbrances, easements, liens and restrictions, including zoning and other regulations affecting the lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the lands;

(5) A statement of the use for which the property is offered, including, but not limited to:

(a) Information concerning improvements, including hospitals, health and recreational facilities of any kind, streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities and customary utilities; and

(b) The estimated cost, date of completion and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any interest in the subdivision or subdivided lands;

(6) The notice, as required in subsection d. of this section, shall, in addition to being contained in all contracts or agreements, be conspicuously located and simply stated in the public offering statement; and

(7) Additional information required by the commission to assure full and fair disclosure to prospective purchasers.

b. The public offering statement shall not be used for any promotional purposes before registration of the subdivided lands and afterwards only if it is used in its entirety. No person may advertise or represent that the commission approves or recommends the subdivided lands or the disposition thereof. No portion of the public

offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the commission requires or permits it.

c. The commission may require the subdivider to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of the subdivision may be made after registration without notifying the commission and without making an appropriate amendment to the public offering statement. A public offering statement is not current unless all amendments or consolidations are incorporated.

d. Any contract or agreement for the purchase or the leasing of a lot may be rescinded by the purchaser or lessee without cause of any kind by sending or delivering written notice of cancellation by midnight of the seventh calendar day following the day on which the purchaser has executed the contract or agreement. Every contract or agreement shall be in writing and shall contain the following notice in 10-point bold type or larger, directly above the space provided for the signature of the purchaser or lessee:

NOTICE to PURCHASER or LESSEE: You are entitled to the right to cancel this contract by midnight of the seventh calendar day following the day on which you have executed this contract or agreement.

e. The subdivider shall make copies of the public offering statement available to prospective purchasers prior to their signing any contract or agreement.

C.45:15-16.39 Consolidated filing.

13. A subdivider may register additional subdivided lands pursuant to the same common promotional plan as those previously registered by submitting an additional filing providing the additional information necessary to register the additional lots, parcels, units or interests which shall be designated as "a consolidated filing."

C.45:15-16.40 Report by subdivider.

14. a. Within 30 days after each annual anniversary date of an order registering the subdivided lands, or on or before a date set by the commission, and while the subdivider retains any interest therein, the subdivider of these lands shall file a report in the form prescribed by the rules and regulations promulgated by the commission. The report shall reflect any material changes in the information contained in the original application for registration; except

that, with respect to any registration filed with and approved by the commission prior to the date of enactment of this act, no additional information shall be required on the subdivided land covered by such registration other than that necessary to indicate any material changes in information contained in the original application for registration.

b. The commission shall process and review requests for amendments to a registration in accordance with the standards and procedures established in this act for review of applications for registration. Requests for amendment, other than price changes and advertising, shall be accompanied by a fee as the commission may prescribe by rule.

c. Upon a determination by the commission that an annual report is no longer necessary for the protection of the public interest or that the developer no longer retains any interest and no longer has any contractual, bond or other obligations in the subdivision, the commission shall issue an order terminating the responsibilities of the developer under this act.

C.45:15-16.41 Powers of commission.

15. The commission may:

a. Accept registrations filed in this State, in other states or with the federal government;

b. Contract with similar agencies in this State or other jurisdictions to perform investigative functions;

c. Accept grants in aid from any governmental or other source;

d. Cooperate with similar agencies or commissions in this State or other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices;

e. Grant exemptions pursuant to the rules and regulations adopted pursuant to section 23 of this act;

f. Make any necessary public or private investigations within or outside of this State to determine whether any person has violated or is about to violate any provision of this act, or to aid in the enforcement of this act or in the prescribing of rules and regulations and forms hereunder;

g. Require or permit any person to file a statement in writing,

under oath or otherwise, as the commission determines, as to all the facts and circumstances concerning the matter to be investigated;

h. For the purpose of any investigation or proceeding under this act, the commission or any officer designated by rule, may administer oaths, or affirmations, and upon its own motion or upon request of any party may subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence; and

i. Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the commission may apply to the Superior Court for an order compelling compliance.

C.45:15-16.42 Commission empowered to issue cease and desist orders.

16. a. If the commission determines after notice and hearing that a person has:

- (1) Violated any provision of this act;
 - (2) Directly or through an agent or employee engaged in any false, deceptive, or misleading advertising, promotional or sales methods in the State of New Jersey to offer or dispose of an interest in the subdivision or subdivided lands;
 - (3) Made any material change in the plan of disposition and development of the subdivision or subdivided lands subsequent to the order of registration without first complying with the provisions of subsection o. of section 10 of this act;
 - (4) Disposed of any subdivision or subdivided lands which have not been registered with the commission; or
 - (5) Violated any lawful order or rule or regulation of the commission;
- the commission may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this act.

b. If the commission makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an

order, it may issue a temporary cease and desist order. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held within 15 days of the receipt of the request.

C.45:15-16.43 Conditions for revocation of registration.

17. a. A registration may be revoked after notice and hearing upon a written finding of fact that the subdivider has:

(1) Failed to comply with the terms of a cease and desist order issued pursuant to subsection a. of section 16 of this act;

(2) Been convicted in any court for a crime or civil offense involving fraud, deception, false pretenses, misrepresentation, false advertising, dishonest dealing, or other like offense subsequent to the filing of the application for registration;

(3) Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;

(4) Failed faithfully to perform any stipulation or agreement made with the commission as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement;

(5) Advertised his subdivision or responded to applications for his subdivision in a manner which was discriminatory on the basis of marital status, sex, race, creed, color, religion or national origin;

(6) Willfully violated any provision of this act or of a rule or regulation promulgated pursuant to section 23 of this act; or

(7) Made intentional misrepresentation or concealed material facts in the documents and information submitted in the application filed for registration. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

b. If the commission finds, after notice and hearing, that the subdivider has been guilty of a violation for which revocation could be ordered, it may, in lieu thereof, issue a cease and desist order pursuant to subsection a. of section 16 of this act.

C.45:15-16.44 Commission empowered to bring action in Superior Court; intervene in suits.

18. a. If it appears that a person has engaged, or is about to engage, in an act or practice constituting a violation of a provision of this act, the commission, with or without prior administrative proceedings, may bring an action in the Superior Court to enjoin the

acts or practices and to enforce compliance with this act or any rule, regulation or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver may be appointed. The commission shall not be required to post a bond in any court proceeding.

b. The commission may intervene in a suit involving any subdivision. In any such suit, by or against the developer or subdivider, the developer or subdivider shall promptly furnish the commission with notice of the suit and copies of all pleadings.

C.45:15-16.45 Submission of applicant to the courts; methods of service.

19. a. For purposes of this act, an applicant for registration submitted to the commission shall be deemed as submission, by the applicant, to the jurisdiction of the Courts of the State of New Jersey.

b. In addition to the methods of service provided for in the Rules Governing the Courts of the State of New Jersey, service may be made by delivering a copy of the process to the person in charge of the office of the commission at its office, but that service shall not be effective unless the plaintiff, which may be the commission in a proceeding instituted by it:

(1) Sends a copy of the process and the pleading by certified mail to the defendant or respondent at his last known address; and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within the time as the court allows.

c. If any person, including any nonresident of this State, engaged in conduct prohibited by this act and has not filed a consent of service of process and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct authorizes the commission to receive service of process in any noncriminal proceedings against him or his successor which grows out of that conduct and which is brought under this act with the same force and validity as if served on him personally. Notice shall be given as provided in subsection a. of this section.

C.45:15-16.46 Violations by brokers, salespeople; fines, penalties.

20. a. Any broker or salesperson who violates any of the provisions of this act shall, in addition to the penalties set forth herein, be subject to the penalties as set forth in R.S.45:15-17.

b. Any person who violates any provision of this act or any person who, in an application for registration filed with the commission,

makes any untrue statement of a material fact or omits to state a material fact shall be fined not less than \$250.00, nor more than \$50,000.00, per violation.

c. The commission may levy and collect the penalties set forth in subsection b. of this section after affording the person alleged to be in violation of this act an opportunity to appear before the commission and to be heard personally or through counsel on the alleged violations and a finding by the commission that said person is guilty of the violation. When a penalty levied by the commission has not been satisfied within 30 days of the levy, the penalty may be sued for and recovered by, and in the name of, the commission in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

d. The commission may, in the interest of justice, compromise any civil penalty, if in its determination the gravity of the offense or offenses does not warrant the assessment of the full fine.

C.45:15-16.47 Actions, counterclaims permitted against non-compliers.

21. a. Any person who suffers any ascertainable loss of moneys as a result of the failure of another to comply fully with the provisions of this act may bring an action or assert a counterclaim in any court of competent jurisdiction. In any action filed under this section in which a defendant is found to have knowingly engaged in any false, deceptive, misleading promotional or sales methods or discriminatory advertising on the basis of race, sex, creed, color, marital status, national origin or religion, concealed or fraudulently diverted any funds or assets so as to defeat the rights of subdivision purchasers, made an intentional misrepresentation or concealed a material fact in an application for registration, or disposed of any subdivision or subdivided lands required to be registered under section 7 of this act which are not so registered, the court shall, in addition to any other appropriate legal or equitable remedy, award double the damages suffered, and court costs expended, including reasonable attorney's fees. In the case of an untruth, omission, or misleading statement the developer sustains the burden of proving that the purchaser knew of the untruth, omission or misleading statement, or that he did not rely on such information, or that the developer did not know, and in the exercise of reasonable care could not have known, of the untruth, omission, or misleading statement.

b. The court may, in addition to the remedies provided in this act, frame any other relief that may be appropriate under the circumstances including, in the court's discretion, restitution of all monies

paid and, where a subdivider has failed to provide to a purchaser a copy of the current public offering statement approved by the commission prior to execution of the contract or agreement, rescission of the contract. If the purchaser fails to establish a cause of action, and the court further determines that the action was wholly without merit, the court may award attorney's fees to the developer or subdivider.

c. Every person who directly or indirectly controls a subdivision or developer and violates the provisions of subsection a. of this section, every general partner, officer, or director of a developer, and every person occupying a similar status or performing a similar function, shall be jointly and severally liable with and to the same extent as the developer. The person otherwise liable pursuant to this subsection sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is a right to contribution among persons found liable.

d. Any stipulation or provision purporting to bind any purchaser acquiring a parcel, lot, unit, or interest in any development subject to the provisions of this act, to a waiver of compliance with the provisions of this act, shall be void.

e. Any party to an action asserting a claim, counterclaim or defense based upon any violation of this act shall mail a copy of the initial or responsive pleading containing the claim, counterclaim or defense to the commission within 10 days of the filing of the pleading with court. Upon application to the court where the matter is pending, the commission shall be permitted to intervene or to appear in any status appropriate to the matter.

C.45:15-16.48 Existing registrations deemed in force and effect.

22. Any registration of a subdivision or amendment thereto, or consolidation, or renewal thereof approved by the commission prior to August 2, 1989, under the "Land Sales Full Disclosure Act," P.L.1975, c.235 (C.45:15-16.3 et seq.) shall, upon the enactment of this act, be deemed in force and effect for the remainder of the 12-month period for which it was issued.

C.45:15-16.49 Rules and regulations.

23. The commission shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the provisions of this act. The rules may include, but shall not be limited

to: a. provisions for advertising standards to insure full and fair disclosure; b. provisions for adequate bondings or access to some escrow or trust fund not otherwise required by the municipal governing body to be located within this State, or the state or country where the property is located, so as to insure compliance with the provisions of this act, and to compensate purchasers for failure of the registrant to perform in accordance with the terms of any contract or public statement; c. provisions that require a registrant to deposit purchaser down payments, security deposits or other funds in an escrow account, or with an attorney licensed to practice law in this State, or the state or country where the property is located, until such time as the commission by its rules and regulations deems it appropriate to permit such funds to be released; d. provisions to insure that all contracts between developer and purchaser are fair and reasonable; e. provisions that the developer must give a fair and reasonable warranty on construction of any improvements; f. provisions that the budget for the operation and maintenance of the common or shared elements or interest shall provide for adequate reserves for depreciation and replacement of the improvements; g. provisions for operating procedures; and h. other rules and regulations necessary to effectuate the purposes of this act, and taking into account and providing for, the broad range of development plans and devises, management mechanisms, and methods of ownership, permitted under the provisions of this act.

Repealer.

24. P.L.1975, c.235 (C.45:15-16.3 et seq.) is repealed.

25. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 240

AN ACT concerning regulated medical waste generator fees, and amending and supplementing P.L.1989, c.34.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 7 of P.L.1989, c.34 (C.13:1E-48.7) is amended to read as follows:

C.13:1E-48.7 Generator registration, fees.

7. Every generator shall register with the Department of Environmental Protection on a form prescribed by the department, and pay an annual fee therefor in an amount set by the department pursuant to a rule or regulation adopted in accordance with the "Administrative Procedure Act." The department shall set annual fees based upon the volume of the regulated medical waste produced by the generator. The annual fees shall not exceed the following limitations:

I. Under 50 pounds per year	\$100.00.
II. 50-200 pounds per year	\$300.00.
III. Over 200-300 pounds per year	\$500.00.
IV. Over 300-1000 pounds per year	\$1,000.00.
V. Over 1000 pounds per year	\$3,500.00.

The generator shall indicate on the registration form the name of every transporter retained by the generator to collect the generator's regulated medical waste.

2. Section 12 of P.L.1989, c.34 (C.13:1E-48.12) is amended to read as follows:

C.13:1E-48.12 Regulation of flow.

12. a. The Department of Environmental Protection, in conjunction with the Board of Public Utilities, shall adopt appropriate rules or regulations or issue administrative orders providing for the inter-district or intradistrict flow of regulated medical waste. The rules, regulations, or administrative orders shall establish the manner in which the department and the board jointly will direct the flow of regulated medical waste in this State pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et seq.) and the provisions of this act, and determine where regulated medical waste may be disposed.

b. The Board of Public Utilities shall have jurisdiction over rates or charges for the disposal of regulated medical waste received by any commercial incinerator or commercial facility in this State that accepts regulated medical waste for disposal. The department, in conjunction with the board, may require any solid waste facility to accept for disposal regulated medical waste prepared for that purpose in accordance with the provisions of this act, and any rule or regulation adopted pursuant thereto, on the same terms and under the same conditions as ordinary solid waste.

c. The Board of Public Utilities shall not have jurisdiction over rates or charges for the disposal of regulated medical waste imposed

by any noncommercial facility in this State that accepts regulated medical waste for disposal, without regard to whether the regulated medical waste was generated onsite or otherwise.

d. (1) The Commissioner of Health shall recommend to the Hospital Rate Setting Commission adjustments to the reimbursement rates for affected generators for activities that are required under this act, but that are not currently reimbursed under the rate setting system established by section 5 of P.L.1978, c.83 (C.26:2H-4.1). The Division of Medical Assistance and Health Services shall recommend to the Commissioner of Human Services adjustments to the reimbursement rates under Medicaid for affected generators for activities that are required under this act, but that are not currently reimbursed under the Medicaid rate setting system.

(2) The Commissioner of Health shall develop and implement a generic appeal process, under which any hospital may petition the Hospital Rate Setting Commission under the appropriate appeal option for the expeditious reimbursement of the costs incurred in complying with the provisions of this act, including the amount of the annual registration fee paid to the department by generators of regulated medical waste pursuant to section 7 of P.L.1989, c.34 (C.13:1E-48.7), to the extent that these costs and the annual fee is not currently reimbursed under the rate setting system established by P.L.1971, c.136 (C.26:2H-1 et seq.) or section 5 of P.L.1978, c.83 (C.26:2H-4.1), as the case may be.

3. Within six months of the effective date of this act, the department shall reimburse each generator of regulated medical waste the difference between the amount of the annual fee assessed and collected pursuant to rules and regulations adopted by the department on August 25, 1989 and the amount assessed against the generator pursuant to section 7 of P.L.1989, c.34 (C.13:1E-48.7) as amended by section 1 of P.L.1989, c.240.

4. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 241

AN ACT requiring the establishment of a Subcommittee on Green Acres Properties, prescribing its powers and duties, and supplementing chapter 20 of Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:20-18.1 Findings, declarations.

1. The Legislature finds and declares that approval by the State House Commission is a precondition to the execution of any contract for the alteration, expansion, or improvement of any real property purchased by local government units with funds made available from Green Acres bond revenues; that the commission acts only when completed plans and specifications are submitted to it for review; that because the commission does not meet on a frequent basis, delays in implementing projects awaiting contract approval occur; that many of these contracts concern minor projects that would benefit from expeditious consideration; and that it is in the public interest to provide a mechanism to expedite State review of minor projects associated with real property purchased with Green Acres funds.

C.52:20-18.2 Subcommittee on Green Acres Properties established.

2. The State House Commission shall establish from its membership a Subcommittee on Green Acres Properties. The subcommittee shall constitute an instrumentality of the State exercising public and essential governmental functions, and the exercise by the subcommittee of the powers conferred by this or any other act shall be deemed and held to be an essential governmental function of the State.

C.52:20-18.3 Subcommittee to meet, provide minutes to State House Commission.

3. The subcommittee shall meet at least once every two months to conduct its business. A true copy of the minutes of every meeting of the subcommittee shall be prepared and forthwith delivered to the commission.

C.52:20-18.4 Commission to determine what projects subcommittee may consider, interim guidelines.

4. The commission shall formulate and adopt rules of procedure for the government of the subcommittee in exercising its powers and fulfilling its duties under this act, including a determination of the type of proposed alteration, expansion, or improvement that the subcommittee may consider. Until this determination is made, the

subcommittee, on an interim basis, may consider proposals involving expenditures of less than \$2,000,000.00 or proposals for exchanges of land parcels of equal value less than 20 acres in size.

C.52:20-18.5 Powers and duties of subcommittee.

5. The subcommittee shall have the following powers and duties:

a. To review proposals submitted for approval in connection with the minor alteration, expansion, exchanges, or improvement of any real property purchased by a local government unit with Green Acres funds and to grant such approval if warranted.

b. To call to its assistance and avail itself of the services of such employees of any State, county, or municipal department, board, commission, or agency as may be required and made available for such purposes.

C.52:20-18.6 Exercise of powers and duties.

6. The subcommittee may exercise its powers and duties on behalf of the commission notwithstanding the provision of R.S.52:20-6.

7. Within one year of the effective date of this act, the commission shall review the actions of the subcommittee, and evaluate its success in expediting the review process, and make any recommendations to the subcommittee that may be appropriate to further the purposes of this act.

8. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 242

AN ACT concerning deadlines for municipally approved programs and amending P.L.1983, c.32.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 14 of P.L.1983, c.32 (C.4:1C-21) is amended to read as follows:

C.4:1C-21 Municipally approved program.

14. a. Any one or more owners of land which qualifies for differential property tax assessment pursuant to the "Farmland Assessment

Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and which is included in an agricultural development area may petition the board for the creation of a municipally approved program comprising that land; provided that the owner or owners own at least the minimum acreage established by the board. The petition shall include a map of the boundaries of the municipally approved program and any other information deemed appropriate by the board.

b. Upon receipt thereof, the board shall review this petition for conformance with minimum eligibility criteria as established by the committee and the board. If the board finds that the criteria have been met, it shall immediately forward a copy of the petition to the county planning board, the governing body of any municipality wherein the proposed municipally approved program is located, and to the planning board of each affected municipality.

c. Within 60 days of receipt of the petition, the municipal planning board shall review and report to the municipal governing body the potential effect of the proposed municipally approved program upon the planning policies and objectives of the municipality.

d. The municipal governing body shall, after public hearing and within 120 days of receipt of the report, recommend to the board, by ordinance duly adopted, that the municipally approved program boundaries be approved, conditionally approved with proposed geographical modifications, or disapproved.

e. Upon receipt of a recommendation by the governing body to approve the petition, the board shall forward the petition for the creation of the municipally approved program and the municipal ordinance approving the municipally approved program to the county planning board. This action shall constitute creation of a municipally approved program.

f. Upon receipt of a recommendation by the governing body to conditionally approve the petition with proposed geographical modifications, the board shall review the recommendation for conformance with minimum eligibility criteria. If the board finds that the criteria have been met and that the proposed modifications encourage agriculture retention and development to the greatest practicable extent, the petition shall be forwarded and adopted pursuant to subsection e. of this section.

g. Upon receipt of a recommendation by the governing body to disapprove the petition, the board shall take no further action and the proposed municipally approved program shall not be adopted.

h. If the governing body proposes modifications to the petition which exclude any land from being included within a municipally approved program, the owner thereof may request that the board mediate on behalf of the landowner with the municipal governing body prior to acting on the recommendation thereof. The landowner may request mediation by the committee with respect to any action taken by the board.

i. The provisions of this section to the contrary notwithstanding, if any municipal governing body fails to act on a petition to create a municipally approved program within 180 days of the receipt by the municipal planning board of the petition, regardless of whether or not the municipal planning board has submitted a report pursuant to subsection c. of this section, the board or the landowner may appeal to the committee to intervene, and the committee may approve or disapprove a petition for the creation of a municipally approved program pursuant to the provisions of this section.

j. The board shall advise owners of any land contiguous to the proposed municipally approved program that a petition has been received, solicit opinions concerning inclusion of this land and, if the board deems appropriate, encourage the inclusion of the land in the municipally approved program.

Any landowner not included in the municipally approved program as initially created may, within two years following the creation date, request inclusion, and upon review by the board and municipal governing body, and a finding that this inclusion is warranted, become part of the municipally approved program; provided that the landowner enters into an agreement pursuant to section 17 of this act for the remaining duration of the municipally approved program.

2. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 243

AN ACT concerning the review of expenditures for the cleanup of hazardous discharges, amending P.L.1982, c.30, P.L.1982, c.32, amending and supplementing P.L.1981, c.279, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 6 of P.L.1981, c.279 (C.13:1E-54) is amended to read as follows:

C.13:1E-54 Hazardous Waste Advisory Council; established; membership, meetings.

6. a. There is established in the department a Hazardous Waste Advisory Council which shall consist of 17 members, on which the State Auditor and the Director of the Office of Management and Budget in the Department of the Treasury shall serve ex officio, and 15 members appointed by the Governor with the advice and consent of the Senate. Each of these members shall be appointed for a term of three years, provided that of the members of the council first appointed by the Governor, four shall serve for terms of one year, five shall serve for terms of two years, and four shall serve for terms of three years. Of these members, three shall be appointed from persons recommended by recognized environmental or public interest organizations; two from persons recommended by recognized organizations of municipal elected and appointed officials; two from persons recommended by recognized organizations of county elected and appointed officials; one from persons recommended by recognized community organizations; one from persons recommended by recognized organizations of firefighters; one from persons recommended by recognized organizations of industries which utilize on-site facilities for the treatment, storage or disposal of hazardous waste; one from persons recommended by recognized organizations of industries which utilize major hazardous waste facilities for the treatment, storage or disposal of hazardous waste; one from persons recommended by recognized organizations of persons licensed by the department to transport hazardous waste, or by individual licensed hazardous waste transporters; one from persons recommended by recognized organizations of persons licensed by the department to operate major hazardous waste facilities, or by individual licensed major hazardous waste facility operators; one from persons employed in the private sector with expertise in the financial management of public funds; and one from persons in the academic community with expertise in program and management evaluation techniques. In the event that no recommendations for a particular category of membership are made to the Governor within 60 days of the effective date of this act, in the case of the initial appointments, or within 60 days of the date of the expiration of the term of office of any member or the occurrence of any vacancy, in the case of subsequent appointments, the Governor shall appoint as a member or members for that

category of membership such person or persons whom he believes shall be representative thereof.

b. A majority of the membership of the council shall constitute a quorum for the transaction of council business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative vote of a majority of the full membership of the council.

c. The council shall meet regularly as it may determine, and shall also meet at the call of the chairman of the commission or the commissioner.

d. The council shall appoint a chairman from among its members and such other officers as may be necessary. The council may, within the limits of any funds appropriated or otherwise made available to it for this purpose, appoint such staff or hire such experts as it may require.

e. Members of the council shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

2. Section 7 of P.L.1981, c.279 (C.13:1E-55) is amended to read as follows:

C.13:1E-55 Duties of the council.

7. The council shall:

a. Advise the commission concerning the preparation and adoption of the plan, the proposal and adoption, by the commission, of all sites for major hazardous waste facilities, and the implementation of the public information program;

b. Advise the department concerning the preparation and adoption of criteria for the siting of new major hazardous waste facilities and make recommendations for departmental action on applications for the approval of registration statements and engineering designs for new major hazardous waste facilities;

c. Develop, in conjunction with the department, a protocol for the fiscal analysis and evaluation of the hazardous waste site cleanup program;

d. Review the audit report on the expenditure of funds provided for the cleanup of hazardous discharges prepared by the State

Auditor pursuant to P.L.1982, c.30 (C.52:24-4.1 et seq.) and advise the department concerning the expenditure of those funds; and

e. Review all matters submitted to it by the commission or the department and state its position on the matter within 60 days of the submission thereof.

C.13:1E-55.1 Annual program analysis required.

3. a. The Director of the Office of Management and Budget shall annually conduct an analysis of the program established in the Department of Environmental Protection for the cleanup of hazardous discharges in the State. This program analysis shall include an evaluation of the staff levels necessary to efficiently carry out the program and an analysis of the most efficient use of the various sources of funds dedicated to the cleanup program.

b. The program analysis shall be submitted to the Commissioner of Environmental Protection and to the Hazardous Waste Advisory Council for review and to the State Auditor for utilization in the preparation of the audit report.

c. The advisory council may request the Director of the Office of Management and Budget to conduct additional program analyses consistent with this section if the council determines, based on the report submitted by the State Auditor, that additional analyses are required.

C.13:1E-55.2 Council to review audit report, program analysis; annual report.

4. a. The Hazardous Waste Advisory Council shall review, analyze and evaluate the audit report of the State Auditor and the program analysis of the Office of Management and Budget and shall annually submit a report to the Senate Energy and Environment Committee and the General Assembly Environmental Quality Committee, or their designated successors, detailing the results of the audit, analysis, and evaluation, and setting forth the council's recommendations for improving the financial operations and management of the cleanup program.

b. The Hazardous Waste Advisory Council may, within the limits of funds provided for these purposes, contract for such legal, financial, scientific, or other services as deemed necessary to carry out the responsibilities established in this amendatory and supplementary act.

C.13:1E-55.3 Rules, regulations.

5. The Department of Environmental Protection shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1

et seq.), adopt any rules and regulations necessary to implement the recommendations of the council for the improvement of the cleanup program consistent with the provisions of this amendatory and supplementary act.

6. Section 1 of P.L.1982, c.30 (C.52:24-4.1) is amended to read as follows:

C.52:24-4.1 Annual audit of "Hazardous Discharge Fund," "Hazardous Discharge Site Cleanup Fund."

1. The State Auditor shall conduct an annual financial and operational audit of the "Hazardous Discharge Fund" created pursuant to the "Hazardous Discharge Bond Act," P.L.1981, c.275 and the "Hazardous Discharge Site Cleanup Fund" established pursuant to section 1 of P.L.1985, c.247 (C.58:10-23.34). This audit, together with any recommendations on practices or procedures to promote or guarantee the fiscal integrity of the "Hazardous Discharge Fund" and the "Hazardous Discharge Site Cleanup Fund" and to improve the effectiveness of fund operations, shall be submitted to the Governor and the Legislature, the Assembly Environmental Quality Committee and the Senate Energy and Environment Committee, or their designated successors, and the Hazardous Waste Advisory Council established pursuant to section 6 of P.L.1981, c.279 (C.13:1E-54). The audit shall be due on or before December 31 of each year.

7. Section 1 of P.L.1982, c.32 (C.52:24-4.2) is amended to read as follows:

C.52:24-4.2 Annual audit of funds.

1. The State Auditor shall conduct an annual audit of the funds pursuant to the provisions of chapter 24 of Title 52 of the Revised Statutes. This audit, together with any recommendations on practices or procedures to promote or guarantee the fiscal integrity and improve the operations of the funds, shall be submitted to the Governor and the Legislature, the General Assembly Environmental Quality Committee and the Senate Energy and Environment Committee, or their designated successors and the Hazardous Waste Advisory Council. The audit for fiscal year 1981 shall be due within 60 days of the effective date of this act, and each successive annual audit shall be due on or before December 31.

8. There is appropriated from the "Hazardous Discharge Site Cleanup Fund" created pursuant to P.L.1985, c.247 (C.58:10-23.34), to the Hazardous Waste Advisory Council the sum of \$15,000, for the purpose of carrying out its responsibilities under this 1989 amendatory and supplementary act.

9. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 244

AN ACT concerning municipal solid waste charges, amending R.S.40:66-1 through R.S.40:66-5 and P.L.1970, c.40, supplementing chapter 66 of Title 40 of the Revised Statutes, and repealing R.S.40:66-6 and R.S.40:66-7.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.40:66-1 is amended to read as follows:

Street cleaning; solid waste disposal; ordinances, rules and regulations.

40:66-1. The governing body may provide for the cleaning of the streets of the municipality, and for the collection or disposal of solid waste, and may establish and operate a system therefor; purchase and operate the necessary equipment for the cleaning of streets, and for the collection or disposal of solid waste; make, amend, repeal and enforce all such ordinances, resolutions, rules and regulations as may be deemed necessary and proper for the introduction, operation and management of such system, and for the maintenance and operation of a solid waste facility, subject to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid Waste Utility Control Act of 1970," P.L.1970, c.40 (C.48:13A-1 et seq.), for the disposal of solid waste, and for the government of employees connected therewith.

2. R.S.40:66-2 is amended to read as follows:

Buildings, appliances for solid waste disposal; acquisition of lands.

40:66-2. The governing body may, subject to the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), erect the necessary buildings and equip the same with all appliances proper for the disposal of solid waste, and acquire the real estate necessary therefor by purchase, gift or condemnation. Such buildings may be erected on any real estate owned by the municipality suitable for the purpose.

3. R.S.40:66-3 is amended to read as follows:

Lands in other municipalities; consent required.

40:66-3. Every municipality may acquire, by purchase, lease or

condemnation and subject to the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), unimproved lands, within or without the municipality, to be used for the disposal of solid waste, but no such lands shall be acquired or used for such purpose outside the limits of the municipality, without the consent of the governing body and of the board of health of the municipality wherein such lands are situated.

4. R.S.40:66-4 is amended to read as follows:

Contracts; advertisement for bids; contractor's bond; renegotiation of contracts.

40:66-4. a. The governing body may, if it deem it more advantageous, contract with any person for the cleaning of the streets, or the collection or disposal of solid waste. Before making any such contract or contracts the governing body shall first adopt specifications for the doing of the work in a sanitary and inoffensive manner, and any such contract or contracts, the total amount of which exceeds in the fiscal year the amount set forth in, or the amount calculated by the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall be entered into and made only after bids shall have been advertised therefor, and awarded in the manner provided in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). The bidder or bidders to whom the contract or contracts shall be awarded shall give satisfactory bond or other security for the faithful performance of the work. The contract shall include and in all respects conform to the specifications adopted for the doing of the work.

b. Whenever the governing body adopts an ordinance to provide for the collection or disposal of solid waste within its municipal boundaries by imposing solid waste charges based on the number of solid waste containers processed per household pursuant to subsection b. of R.S.40:66-5, on or after the first day of the 13th month following the effective date of that ordinance, the governing body may request the relevant solid waste collector or solid waste transporter to whom a multi-year contract has been awarded to renegotiate the contract to reflect any reduction in the annual volume of solid waste collected or transported achieved as a result of the ordinance.

5. R.S.40:66-5 is amended to read as follows:

Cost of solid waste collection, disposal; ordinance.

40:66-5. a. The governing body may provide for the collection or disposal of solid waste at the general expense, or if deemed by it more advisable, impose rates or charges (hereinafter referred to as "solid waste charges") to be charged by the municipality for the collection

or disposal of solid waste, provide for the manner of payment of the same, and maintain an action at law to recover any moneys due therefor.

b. Where the governing body determines to provide for the collection or disposal of solid waste by imposing solid waste charges on a per container basis, the governing body shall adopt an ordinance to:

(1) Establish a rate schedule of solid waste charges based on the number of solid waste containers processed per household; and

(2) Provide residents with the opportunity to purchase, on a prepaid basis, one or more solid waste containers, or a voucher or sticker therefor, to facilitate the payment of solid waste charges on a per container basis.

C.40:66-1.1 Definitions.

6. As used in this chapter:

“Solid waste” means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

“Solid waste collection” means the activity related to pick-up and transportation of solid waste from its source or location to a solid waste facility or other destination.

“Solid waste container” means a receptacle, container or bag suitable for the depositing of solid waste.

“Solid waste disposal” means the storage, treatment, utilization, processing, or final disposal of solid waste.

“Solid waste facilities” mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of this or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

7. Section 3 of P.L.1970, c.40 (C.48:13A-3) is amended to read as follows:

C.48:13A-3 Definitions.

3. As used in this act:

a. "Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids disposed of incident thereto, except it shall not include solid animal and vegetable waste collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

b. "Solid waste collection" means the activity related to pickup and transportation of solid waste from its source or location to a disposal site, but does not include activity related to the pickup, transportation or unloading of septic waste.

c. "Solid waste disposal" means the storage, treatment, utilization, processing, or final disposal of solid waste.

d. "Septic waste" means pumpings from septic tanks and cesspools, but shall not include wastes from a sewage treatment plant.

e. "Solid waste container" means a receptacle, container or bag suitable for the depositing of solid waste.

8. Section 8 of P.L.1970, c.40 (C.48:13A-7) is amended to read as follows:

C.48:13A-7 Proof of reasonable rates; contract adjustments.

8. a. The board, upon complaint or its own initiative, after hearing, may direct any person engaging in the solid waste collection business or the solid waste disposal business to furnish proof that the charges or rates to be received for such service do not exceed just and reasonable rates or charges for such service.

b. (1) Should the board find that the rates or charges are excessive then it may order the person charging such excessive rates or charges to make an adjustment in the contract to a sum which shall result in just and reasonable rates or charges.

(2) Should the board find, subsequent to the issuance of any order pursuant to subsection c. of this section, that the rates or charges received for the collection of solid waste contained within a contract

entered into prior to the effective date of that order require adjustment, then it may order the person charging these rates or charges to make an adjustment in the contract to a sum which shall result in just and reasonable rates or charges. In issuing this order, the board shall be exempt from the provisions of R.S.48:2-21.

c. (1) Whenever the governing body of a municipality adopts an ordinance to provide for the collection or disposal of solid waste within its municipal boundaries by imposing solid waste charges based on the number of solid waste containers processed per household pursuant to subsection b. of R.S.40:66-5, the governing body shall transmit to the board, by certified mail and within 90 days of the effective date of the ordinance, a copy of the proposed rate schedule and the contract awarded pursuant to subsection a. of R.S.40:66-4. The board, within 60 days of receipt of the proposed rate schedule and contract and if requested to do so by the municipality or the relevant solid waste collector or solid waste transporter, as the case may be, may review these documents to determine whether the solid waste charges are equitable and to accept, reject or modify the rate schedule.

(2) If the board finds the solid waste charges to be equitable, the board shall accept the rate schedule and contract and issue an appropriate order therefor. In issuing this order, the board shall be exempt from the provisions of R.S.48:2-21.

d. (1) The board may issue an appropriate order establishing an equitable rate schedule based on the number of solid waste containers processed per household for the solid waste collection tariffs of persons engaging in private solid waste collection or transportation services in any municipality in which solid waste collection or transportation services are contracted for and provided on an individual household basis. In issuing this order, the board shall be exempt from the provisions of R.S.48:2-21.

(2) Any person engaged in private solid waste collection or transportation services in this State and utilizing a rate schedule based on the number of solid waste containers processed per household as provided in this subsection may provide customers with the opportunity to purchase, on a prepaid basis, one or more solid waste containers, or a voucher or sticker therefor, to facilitate the provision of solid waste collection services on a per container basis.

Repealer.

9. The following are repealed:

R.S.40:66-6 through R.S.40:66-7.

10. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 245

AN ACT permitting certain banking institution subsidiaries of the same bank holding company to engage in certain interactions on behalf of each other and supplementing P.L.1948, c.67 (C.17:9A-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.17:9A-19.2 Authority given to banking institution to act as agent for other banking institutions which are subsidiaries of same bank holding or savings bank holding companies.

1. A banking institution may accept deposits and conduct other banking business as agent for any other banking institution which is also a subsidiary of the same bank holding company or savings bank holding company, without being required to obtain a license as a branch office of the other banking institution; and may provide customer information to the bank holding company or savings bank holding company of which it is a subsidiary or to any other subsidiary thereof solely for use in conducting business with the customer. A customer shall have the right to treat the processing of a transaction by a bank acting as agent pursuant to this section as processing by the customer's bank for all purposes, including the date and time of processing. For purposes of this act, "subsidiary" and "bank holding company" shall have the same meaning as set forth in section 1 of P.L.1986, c.6 (C.17:9A-373), and "savings bank holding company" shall mean a "mutual savings bank holding company" or a "capital stock savings bank holding company" as set forth in section 1 of P.L.1987, c.201 (C.17:9A-382).

2. The commissioner shall conduct a study and shall report the findings of that study within 18 months of the effective date of this act to the appropriate committees of the Senate and the General Assembly. The study shall consider, but is not limited to, the following issues:

- a. The number of bank and savings bank holding companies whose subsidiaries have used the authority given to them by this act;
 - b. The extent of customer complaints concerning the use or non-use of the authority given to a subsidiary of a bank or savings bank holding company to act as an agent for other subsidiaries of the same holding company; and
 - c. The impact of this act on the competitive positions of banks and savings banks in this State comparing those that are subsidiaries of a holding company with those that are not subsidiaries of a holding company.
3. The commissioner shall have the authority to promulgate regulations to implement the provisions of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
 4. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 246

AN ACT concerning certain hazardous discharges and supplementing P.L.1976, c.141 (C.58:10-23.11 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.58:10-23.11e1 Hazardous discharge by aircraft to be reported.

1. Whenever an aircraft discharges fuel into the airspace over the land or waters of this State, the operator shall note the amount of fuel discharged, location in flight path of the discharge, wind speed and direction, and area likely to be affected by the discharge. The operator shall include this information in its report of a hazardous discharge to the department. Whenever the department receives notice of a discharge from an overhead aircraft, the department shall notify the governing body of each affected municipality of the discharge.

2. On or after the effective date of this act, the department shall notify all airport operators in the State and all commercial airlines operating in the State of the reporting requirements of this act.

3. This act shall take effect immediately but shall remain inoperative until the 30th day after enactment.

Approved January 2, 1990.

CHAPTER 247

AN ACT concerning railroads, and amending P.L.1960, c.152.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 1 of P.L.1960, c.152 (C.48:12-49.1) is amended to read as follows:

C.48:12-49.1 Construction of bridges or passages; installation of protective devices; division of expenses.

1. The railroad company or companies involved shall pay 15% and the Department of Transportation, out of funds to be provided for that purpose, shall pay 85% of the entire expense of constructing any bridge or passage over or under the railroad or right-of-way pursuant to order of the department under R.S.48:12-49. Such expense shall include, without limitation thereto, damages to adjacent property and the cost of removing, relaying or relocating any municipal pipes, conduits or subways.

In lieu of the apportionment of expenses as set forth above, if the department finds that such construction of any bridge or passage is necessary due to increased vehicular or pedestrian traffic within the limits of the municipality or county having jurisdiction over the road, street or avenue involved, the department may order the entire expense to be paid as follows: 15% by the railroad company or companies involved, 15% by the municipality (or municipalities) or county (or counties) having jurisdiction over the roads, streets or avenues involved and 70% by the department.

The railroad company or companies involved shall pay 5% and the department, out of funds to be provided for that purpose, shall pay 95% of the entire expense: (a) of enlarging, changing, reconstructing, relocating or modifying any bridge or passage over or under the railroad or right-of-way, or of reconstructing any passage across the railroad or right-of-way; pursuant to order of the department under R.S.48:12-49 and as to which actual work is commenced on or after

April 1, 1965; or (b) the installation, change, reconstruction, relocation or modification of protective devices or other provision for the protection of the traveling public at grade crossings pursuant to order of the department under R.S.48:2-29, 48:12-54 or 48:12-55 and as to which actual work is commenced on or after April 1, 1967. Such expense shall include, without limitation thereto, damages to adjacent property and the cost of removing, relaying or relocating any municipal pipes, conduits or subways. With respect to crossings at grade, such expense shall not include the cost of rails, ties or ballast. The protective devices or other provision for the protection of the traveling public at grade crossings shall be maintained by the railroad at its own cost and expense.

In lieu of the apportionment of expenses as set forth in the preceding paragraph, if the department finds that such installation, enlargement, change, reconstruction, relocation or modification is necessary due to increased vehicular or pedestrian traffic within the limits of the municipality or county having jurisdiction over the road, street or avenue involved, the department may order the entire expense to be paid as follows: 5% by the railroad company or companies involved, 15% by the municipality (or municipalities) or county (or counties) having jurisdiction over the roads, streets or avenues involved and 80% by the department.

The municipalities and counties involved are hereby authorized and empowered to make such payments.

Notwithstanding the provisions of R.S.48:12-49 or any other law, rule or regulation to the contrary, a municipality or a county, as the case may be, upon the approval of the Commissioner of Transportation, is authorized to enter into a contract with a railroad company for the construction, reconstruction, maintenance or repair of any passage at grade across a railroad or right-of-way located within the boundaries of its geographic jurisdiction and the protective devices thereon designed to protect the public health and safety, including, but not limited to, safety gates, electric bells, and electric signs or signals. The contract shall set forth the rights and responsibilities of the parties thereto, including the apportionment of payments and costs.

2. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 248

AN ACT concerning the Office of the Public Guardian for Elderly Adults, amending N.J.S.3B:22-2 and amending and supplementing P.L.1985, c.298.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 2 of P.L.1985, c.298 (C.52:27G-21) is amended to read as follows:

C.52:27G-21 Findings, declarations.

2. The Legislature finds and declares that private guardianship for an incompetent elderly adult may not be feasible where there are no willing and responsible family members or friends to serve as guardian, that this act establishes a public guardianship program for elderly adults for the purpose of furnishing guardianship services to elderly persons at reduced or no cost when appropriate, and that this act intends to promote the general welfare by establishing a public guardianship system that permits elderly persons to determinatively participate as fully as possible in all decisions that affect them.

2. Section 6 of P.L.1985, c.298 (C.52:27G-25) is amended to read as follows:

C.52:27G-25 Public guardian as administrator and chief executive officer; powers and duties.

6. The public guardian, as administrator and chief executive officer:

a. Shall administer and organize the work of the office and establish therein any administrative divisions he may deem necessary, proper and expedient. The public guardian may delegate to subordinate officers or employees of the office any of his powers as he may deem desirable to be exercised under his supervision and control;

b. Shall adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act;

c. Shall appoint and remove stenographic, clerical and other secretarial assistants as may be required for the proper conduct of the office, subject to the provisions of Title 11A of the New Jersey Statutes, and other applicable statutes, and within the limits of funds appropriated or otherwise made available therefor. In addition, and

within funding limits, the public guardian may appoint, retain or employ, without regard to the provisions of Title 11A of the New Jersey Statutes or any other statutes, any officers, financial managers, social workers or other professionally qualified personnel on a contract basis or otherwise as the public guardian deems necessary;

d. Shall maintain suitable headquarters for the office and other quarters as the public guardian may deem necessary to the proper functioning of the office;

e. May accept the services of volunteer workers or consultants at no compensation, at nominal or token compensation, or at full compensation, as appropriate, and reimburse them for their proper and necessary expenses;

f. Shall keep and maintain proper financial and statistical records concerning all cases in which the public guardian provides guardianship or conservatorship services, provided that the privacy and confidentiality of these records for each ward are preserved;

g. May serve as guardian and conservator or either of these, after appointment by a court pursuant to the provisions of Title 3B of the New Jersey Statutes, and with the same powers and duties of a private guardian or conservator, except as otherwise limited by law or court order;

h. May intervene in any guardianship or conservatorship proceeding involving a ward, by appropriate motion by the court, if the public guardian or the court deems the intervention to be justified because an appointed guardian or conservator is not fulfilling his duties, the estate is subject to disproportionate waste because of the costs of the guardianship or conservatorship, or the best interests of the ward require intervention;

i. Shall perform any other function which may be prescribed by this act or by any other law;

j. Shall appoint and employ, notwithstanding the provisions of P.L.1944, c.20 (C.52:17A-1 et seq.), a general counsel and such other attorneys or counsel as the public guardian may require, for the purpose, among other things, of providing legal advice on such matters as the public guardian may from time to time require, of attending to and dealing with all litigation, controversies, and legal matters in which the public guardian or any ward of the public guardian may be a party or in which these rights and interests may be involved, and of representing the public guardian and any ward in all proceed-

ings or actions of any kind which may be brought for or against them in any court of this State. With respect to all of the foregoing, the counsel and attorneys shall be independent of any supervision or control by the Attorney General or by the Department of Law and Public Safety, or by any division or officer thereof.

3. Section 7 of P.L.1985, c.298 (C.52:27G-26) is amended to read as follows:

C.52:27G-26 Eligibility for services; petition for appointment by person with responsibility for eligible elderly person; limitation of powers in order.

7. Any elderly person residing in the State who may be found by a court to require a guardian or conservator, pursuant to the provisions of Title 3B of the New Jersey Statutes, and who does not have a willing and responsible family member or friend to serve as guardian is eligible for the services of the public guardian. However, the public guardian shall not be appointed for the sole reason that the proposed ward relies upon treatment by spiritual means through prayer alone in lieu of medical treatment, in accordance with the ward's religious tenets and practices.

In addition to the classes of persons entitled pursuant to Title 3B of the New Jersey Statutes, a county welfare agency, the Ombudsman for the Institutionalized Elderly, or any other agency, public or private, having a responsibility towards the eligible elderly person, may petition the court to have the public guardian appointed as guardian or conservator for the eligible elderly person with the powers and duties ordinarily conferred by law on guardians and conservators or for certain limited purposes described in the petition. If the petition requests that only limited powers be granted, the court shall incorporate these limitations into its order of appointment to the extent it deems appropriate. The court shall ensure beyond a reasonable doubt that the petition is not the product of mistake, fraud, or duress. The filing of the petition will not be the basis for any inference concerning the competence of the petitioner or for any loss of civil rights or benefits.

4. Section 8 of P.L.1985, c.298 (C.52:27G-27) is amended to read as follows:

C.52:27G-27 Administrative costs, commissions and fees of public guardian's services and costs of appointment procedure.

8. a. If the public guardian is appointed guardian or conservator for an eligible elderly person, the administrative costs, commissions and fees of the public guardian's services and the costs incurred in the appointment procedure shall be charged against the income or

the estate of the person pursuant to the provisions of Title 3B of the New Jersey Statutes. The reasonable value of all the services rendered by the public guardian, including the costs incurred in the appointment procedure, less any amounts paid from the income of the person, shall be charged against the estate of the person in accordance with the provisions of section 6 of P.L.1989, c.248 (C.52:27G-27.1).

b. (Deleted by amendment, P.L.1989, c.248.)

5. Section 11 of P.L.1985, c.298 (C.52:27G-30) is amended to read as follows:

C.52:27G-30 Discharge by court; petition.

11. The public guardian may be discharged by a court with respect to any of the authority granted over each ward upon petition of the elderly person, any interested person, or the public guardian, or upon the court's own motion, when it appears that the services of the public guardian are no longer necessary, despite the fact that the individual has not been, and may never be, restored to competency.

C.52:27G-27.1 Lien on estate of elderly person for services of public guardian.

6. a. The reasonable value of the services rendered by the public guardian may in all cases be a lien on the estate of the elderly person on whose behalf the services have been rendered, pursuant to a court order appointing the public guardian. This lien shall be deemed a preferred claim against the estate of the elderly person and shall have a priority as a debt under subsection c. of N.J.S.3B:22-2.

The lien may be filed against the real or personal property, or an interest or estate in property, whether vested or contingent, of a third party.

b. In order to effectuate a lien, the public guardian shall file a notice with the clerk of the Superior Court in the county in which the elderly person resides, setting forth the services rendered and the reasonable value thereof. Upon the filing of the notice, the lien shall immediately attach to, and become binding upon all of the property, whether real or personal, of the estate against whom the lien is filed.

(1) If the clerk finds that the estate against whom a lien is filed pursuant to this act is possessed of any goods, rights, credits, chattels, monies or effects which are held by a person, firm or corporation for the present or future use of the estate, the clerk shall forward notice of the lien by registered or certified mail to that person, firm or

corporation; and the lien shall be binding upon those goods, rights, credits, chattels, monies or effects. Upon receipt of notice of the lien, the person, firm or corporation shall be precluded from disposing of those goods, rights, credits, chattels, monies or effects until the lien is satisfied or until the public guardian consents to that disposition.

A person, firm or corporation who disposes of those goods, rights, credits, chattels, monies or effects after receipt of notice of the lien is liable to the public guardian for the value of the goods, rights, credits, chattels, monies or effects disposed of, or the amount of the lien, whichever is less.

(2) The clerk shall provide suitable books in which he shall enter a lien filed pursuant to this act and shall properly index the lien in the name of the estate against whom the lien has been filed. The public guardian shall not be required to pay filing or recording fees.

c. The public guardian may compromise, settle or waive, in whole or in part, a lien filed pursuant to this act. The public guardian may discharge the lien by filing a certificate or warrant with the clerk of the Superior Court in the county in which the elderly person resides, notifying the clerk of the public guardian's desire to discharge the lien.

C.52:27G-29.1 Maximum caseload.

7. The public guardian shall determine the maximum caseload that the office can maintain based on the amount of funds appropriated or otherwise made available to the office. When a maximum caseload is reached, the public guardian may decline appointment as guardian or conservator. The public guardian shall establish procedures for informing each of the assignment judges of the Superior Court when the office's maximum caseload has been reached, and when the office is able to accept additional cases.

8. N.J.S.3B:22-2 is amended to read as follows:

Order of priority of claims when assets insufficient.

3B:22-2. Order of priority of claims when assets insufficient. If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- a. Reasonable funeral expenses;
- b. Costs and expenses of administration;
- c. Debts and taxes with preference under federal law or the laws of this State, including debts for the reasonable value of services

rendered to the decedent by the Office of the Public Guardian for Elderly Adults;

d. Reasonable medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

e. Judgments entered against the decedent according to the priorities of their entries respectively;

f. All other claims.

No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

9. This act shall take effect immediately.

Approved January 2, 1990.

CHAPTER 249

AN ACT exempting volunteers of certain organizations from liability under certain conditions and amending P.L.1987, c.87 (C.2A:53A-7.1).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1987, c.87 (C.2A:53A-7.1) is amended to read as follows:

C.2A:53A-7.1 Liability of trustees, directors, officers and voluntary members.

1. a. Notwithstanding any other provision of law to the contrary, no person serving without compensation, other than reimbursement for actual expenses, as a trustee, director, officer or voluntary member of any board, council or governing body of any nonprofit corporation, society or association as provided in P.L.1959, c.90 (C.2A:53A-7 to 2A:53A-11), or nonprofit federation council or affiliated group composed of these organizations or a voluntary association as provided by P.L.1979, c.172 (C.18A:11-3) or to a conference under the jurisdiction of such a voluntary association, shall be liable for damages resulting from the exercise of judgment or discretion in connection with the duties of his office unless the actions evidence a reckless disregard for the duties imposed by the position.

b. Notwithstanding any provisions of law to the contrary, no person who provides volunteer service or assistance for any nonprofit corporation, society or association as provided in P.L.1959, c.90 (C.2A:53A-7 to 2A:53A-11), or nonprofit federation council or affiliated group composed of these organizations or a voluntary association as provided by P.L.1979, c.172 (C.18A:11-3) or to a conference under the jurisdiction of such a voluntary association shall be liable in any action for damages as a result of his acts of commission or omission arising out of and in the course of his rendering the volunteer service or assistance.

Nothing in this subsection shall be deemed to grant immunity to any person causing damage by his willful, wanton or grossly negligent act of commission or omission.

Nothing in this subsection shall be deemed to grant immunity to any person causing damage as the result of his negligent operation of a motor vehicle.

c. Nothing in this section shall be deemed to supercede or modify any provision of P.L.1986, c.13 (C.2A:62A-6) dealing with the civil liability of persons involved with nonprofit sports teams.

d. (1) Notwithstanding any other provision of law to the contrary, the provisions of subsection a. of this section shall be applicable to any person serving without compensation, other than reimbursement for actual expenses, as a trustee, director, officer or voluntary member of the board or governing body of any nonprofit corporation, society or association which is organized pursuant to the laws of the State of New Jersey for the purpose of operating or maintaining a cemetery or place of burial.

(2) Notwithstanding any other provision of law to the contrary, the provisions of subsection b. of this section shall be applicable to any person who provides volunteer service or assistance to any nonprofit corporation, society or association organized pursuant to the laws of the State of New Jersey for the purpose of operating or maintaining a cemetery or place of burial.

2. This act shall take effect immediately.

Approved January 3, 1990.

CHAPTER 250

AN ACT to authorize the Borough of Franklin Lakes, in the county of Bergen, to issue a new plenary retail consumption license under certain circumstances notwithstanding the limitation on new licenses imposed by P.L.1947, c.94 (C.33:1-12.13 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. a. Pursuant to the provisions of R.S.1:6-1, and P.L.1948, c.199 (C.1:6-10 et seq.) under which a petition for a special law has been filed with the Legislature, the borough of Franklin Lakes in the county of Bergen is authorized to issue a new plenary retail consumption license to the owner or operator of a restaurant, provided that the owner or operator meets the general licensing qualifications set out in R.S.33:1-25 and notwithstanding that the number of plenary retail consumption licenses in the borough may exceed the limitation imposed by section 2 of P.L.1947, c.94 (C.33:1-12.14).

b. The issuance of a new plenary retail consumption license by the borough of Franklin Lakes pursuant to this section, shall not prevent the borough from the future acquisition and retirement of retail consumption licenses pursuant to the provisions of P.L.1968, c.277 (C.40:48-2.40 et seq.).

2. Following the issuance of the new plenary retail consumption license by the borough of Franklin Lakes pursuant to this act, the borough shall not issue any additional new plenary retail consumption licenses except in conformance with the limitations set forth in section 2 of P.L.1947, c.94 (C.33:1-12.14).

3. This act shall take effect upon the adoption of an ordinance by the borough of Franklin Lakes which adopts the provisions of this act.

Approved January 3, 1990.

CHAPTER 251

AN ACT providing for Medicaid coverage of hospice services, amending P.L.1968, c.413 and making an appropriation therefor.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 6 of P.L.1968, c.413 (C.30:4D-6) is amended to read as follows:

C.30:4D-6 Basic medical care and services.

6. a. Subject to the requirements of Title XIX of the federal Social Security Act, the limitations imposed by this act and by the rules and regulations promulgated pursuant thereto, the department shall provide medical assistance to qualified applicants, including authorized services within each of the following classifications:

- (1) Inpatient hospital services;
- (2) Outpatient hospital services;
- (3) Other laboratory and X-ray services;
- (4) (a) Skilled nursing or intermediate care facility services;

(b) Such early and periodic screening and diagnosis of individuals who are eligible under the program and are under age 21, ascertain their physical or mental defects and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in regulations of the Secretary of the federal Department of Health and Human Services and approved by the commissioner;

(5) Physician's services furnished in the office, the patient's home, a hospital, a skilled nursing or intermediate care facility or elsewhere.

b. Subject to the limitations imposed by federal law, by this act, and by the rules and regulations promulgated pursuant thereto, the medical assistance program may be expanded to include authorized services within each of the following classifications:

(1) Medical care not included in subsection a.(5) above, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice, as defined by State law;

- (2) Home health care services;
- (3) Clinic services;
- (4) Dental services;
- (5) Physical therapy and related services;
- (6) Prescribed drugs, dentures, and prosthetic devices; and eye-glasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;
- (7) Optometric services;
- (8) Podiatric services;
- (9) Chiropractic services;
- (10) Psychological services;
- (11) Inpatient psychiatric hospital services for individuals under 21 years of age, or under age 22 if they are receiving such services immediately before attaining age 21;
- (12) Other diagnostic, screening, preventive, and rehabilitative services, and other remedial care;
- (13) Inpatient hospital services, skilled nursing facility services and intermediate care facility services for individuals 65 years of age or over in an institution for mental diseases;
- (14) Intermediate care facility services;
- (15) Transportation services;
- (16) Services in connection with the inpatient or outpatient treatment or care of drug abuse, when the treatment is prescribed by a physician and provided in a licensed hospital or in a narcotic and drug abuse treatment center approved by the Department of Health pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.) and whose staff includes a medical director, and limited to those services eligible for federal financial participation under Title XIX of the federal Social Security Act;
- (17) Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary of the federal Department of Health and Human Services, and approved by the commissioner;
- (18) Comprehensive maternity care, which may include: the basic number of prenatal and postpartum visits recommended by the

American College of Obstetrics and Gynecology; additional prenatal and postpartum visits that are medically necessary; necessary laboratory, nutritional assessment and counseling, health education, personal counseling, managed care, outreach and follow-up services; treatment of conditions which may complicate pregnancy; and physician or certified nurse-midwife delivery services;

(19) Comprehensive pediatric care, which may include: ambulatory, preventive and primary care health services. The preventive services shall include, at a minimum, the basic number of preventive visits recommended by the American Academy of Pediatrics;

(20) Services provided by a hospice which is participating in the Medicare program established pursuant to Title XVIII of the Social Security Act, Pub. L.89-97 (42 U.S.C. § 1395 et seq.). Hospice services shall be provided subject to approval of the Secretary of the federal Department of Health and Human Services for federal reimbursement.

c. Payments for the foregoing services, goods and supplies furnished pursuant to this act shall be made to the extent authorized by this act, the rules and regulations promulgated pursuant thereto and, where applicable, subject to the agreement of insurance provided for under this act. Said payments shall constitute payment in full to the provider on behalf of the recipient. Every provider making a claim for payment pursuant to this act shall certify in writing on the claim submitted that no additional amount will be charged to the recipient, his family, his representative or others on his behalf for the services, goods and supplies furnished pursuant to this act.

No provider whose claim for payment pursuant to this act has been denied because the services, goods or supplies were determined to be medically unnecessary shall seek reimbursement from the recipient, his family, his representative or others on his behalf for such services, goods and supplies provided pursuant to this act; provided, however, a provider may seek reimbursement from a recipient for services, goods or supplies not authorized by this act, if the recipient elected to receive the services, goods or supplies with the knowledge that they were not authorized.

d. Any individual eligible for medical assistance (including drugs) may obtain such assistance from any person qualified to perform the service or services required (including an organization which

provides such services, or arranges for their availability on a prepayment basis), who undertakes to provide him such services.

No copayment or other form of cost-sharing shall be imposed on any individual eligible for medical assistance, except as mandated by federal law as a condition of federal financial participation.

e. Anything in this act to the contrary notwithstanding, no payments for medical assistance shall be made under this act with respect to care or services for any individual who:

(1) Is an inmate of a public institution (except as a patient in a medical institution); provided, however, that an individual who is otherwise eligible may continue to receive services for the month in which he becomes an inmate, should the commissioner determine to expand the scope of Medicaid eligibility to include such an individual, subject to the limitations imposed by federal law and regulations, or

(2) Has not attained 65 years of age and who is a patient in an institution for mental diseases, or

(3) Is over 21 years of age and who is receiving inpatient psychiatric hospital services in a psychiatric facility; provided, however, that an individual who was receiving such services immediately prior to attaining age 21 may continue to receive such services until he reaches age 22. Nothing in this subsection shall prohibit the commissioner from extending medical assistance to all eligible persons receiving inpatient psychiatric services; provided that there is federal financial participation available.

f. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment for goods and services to an individual because of that individual's eligibility for or receipt of Medicaid benefits shall be null and void, and no payments shall be made under this act as a result of any such provision.

g. The following services shall be provided to eligible medically needy individuals as follows:

(1) Pregnant women shall be provided prenatal care and delivery services and postpartum care, including the services cited in subsection a.(1), (3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6a.(1), (3) and (5)) and subsection b.(1)-(10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6b.(1)-(10), (12), (15) and (17)).

(2) Dependent children shall be provided with services cited in subsection a.(3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6a.(3) and (5)) and subsection b.(1), (2), (3), (4), (5), (6), (7), (10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6b.(1), (2), (3), (4), (5), (6), (7), (10), (12), (15) and (17)).

(3) Individuals who are 65 years of age or older shall be provided with services cited in subsection a.(3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6a.(3) and (5)) and subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17)).

(4) Individuals who are blind or disabled shall be provided with services cited in subsection a.(3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6a.(3) and (5)) and subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17)).

(5) (a) Inpatient hospital services, subsection a.(1) of section 6 of P.L.1968, c.413 (C.30:4D-6a.(1)), shall only be provided to eligible medically needy individuals, other than pregnant women, if the federal Department of Health and Human Services discontinues the State's waiver to establish inpatient hospital reimbursement rates for the Medicare and Medicaid programs under the authority of section 601(c)(3) of the Social Security Act Amendments of 1983, Pub.L.98-21 (42 U.S.C. § 1395ww(c)(5)). Inpatient hospital services may be extended to other eligible medically needy individuals if the federal Department of Health and Human Services directs that these services be included.

(b) Outpatient hospital services, subsection a.(2) of section 6 of P.L.1968, c.413 (C.30:4D-6a.(2)), shall only be provided to eligible medically needy individuals if the federal Department of Health and Human Services discontinues the State's waiver to establish outpatient hospital reimbursement rates for the Medicare and Medicaid programs under the authority of section 601(c)(3) of the Social Security Amendments of 1983, Pub.L.98-21 (42 U.S.C. § 1395ww(c)(5)). Outpatient hospital services may be extended to all or to certain medically needy individuals if the federal Department of Health and Human Services directs that these services be included. However, the use of outpatient hospital services shall be limited to clinic services and to emergency room services for injuries and significant acute medical conditions.

(c) The division shall monitor the use of inpatient and outpatient hospital services by medically needy persons.

2. The Department of Human Services shall report to the Legislature within one year after the effective date of this act regarding the expenses incurred in the provision of hospice services.

3. There is appropriated to the Department of Human Services from the amount remaining unexpended in the General Fund line-item appropriation to Department of Human Services for State Aid, Division of Medical Assistance and Health Services, Payments for medical assistance recipients (State share)—inpatient hospital account, so much as is necessary to effectuate the purposes of this act. The department shall apply to the Director of the Division of Budget and Accounting for permission to transfer such funds pursuant to the general provisions of the annual appropriations act concerning transfers of funds.

4. This act shall take effect one year after the date of enactment.

Approved January 3, 1990.

CHAPTER 252

AN ACT concerning certain senior citizens', disabled persons' and veterans' real property tax exemptions, amending P.L.1963, c.171 and P.L.1963, c.172, and supplementing chapter 4 of Title 54 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 1 of P.L.1963, c.172 (C.54:4-8.40) is amended to read as follows:

C.54:4-8.40 Definitions.

1. Definitions.

As used in this act:

(a) "Income" means all income from whatever source derived including, but not limited to, realized capital gains except for a capital gain resulting from the sale or exchange of real property owned and used by the taxpayer as his principal residence, and on which he received a deduction allowed by this act, and, in their

entirety, pension, annuity and retirement benefits. For the purpose of claiming a deduction from taxes for any tax year, pursuant to this act, "income" shall be deemed to be equal in amount to the income which the taxpayer reasonably anticipates he will receive during the tax year for which such deduction is claimed and shall be exclusive of benefits under any one of the following:

(1) The federal Social Security Act and all amendments and supplements thereto;

(2) Any other program of the federal government or pursuant to any other federal law which provides benefits in whole or in part in lieu of benefits referred to in, or for persons excluded from coverage under, (1) hereof including but not limited to the federal Railroad Retirement Act and federal pension, disability and retirement programs; or

(3) Pension, disability or retirement programs of any state or its political subdivisions, or agencies thereof, for persons not covered under (1) hereof;

provided, however, that the total amount of benefits to be allowed exclusion by any owner under (2) or (3) hereof shall not be in excess of the maximum amount of benefits payable to, and allowable for exclusion by, an owner in similar circumstances under (1) hereof.

(b) "Permanently and totally disabled" means total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness. For purposes of this subsection, "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

(c) "Pretax year" means the calendar year immediately preceding the "tax year."

(d) "Post-tax year" means the calendar year immediately following the "tax year."

(e) "Resident" means one legally domiciled within the State of New Jersey for a period of one year immediately preceding October 1 of the pretax year. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this act. Absence from this State for

a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the claimant.

(f) "Deduction" means the senior citizen's deduction or the deduction for the permanently and totally disabled against the taxes payable by any person, allowable pursuant to this act.

(g) "Tax year" means the calendar year in which the general property tax is due and payable.

(h) "Cooperative" means a housing corporation or association incorporated or organized under the laws of New Jersey which entitles a shareholder thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by the corporation or association;

(i) "Mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of section 607 of the "National Defense Housing Act," Pub. L.76-849 (42 U.S.C. § 1521 et seq.), which acquired a National Defense Housing Project pursuant to that act.

2. Section 2 of P.L.1963, c.172 (C.54:4-8.41) is amended to read as follows:

C.54:4-8.41 Deduction against tax assessed against real property of resident citizen over 65 or permanently and totally disabled with yearly income within limitations; maximum amount.

2. Every person, a citizen and resident of this State of the age of 65 or more years, or less than 65 years of age who is permanently and totally disabled, having an annual income not in excess of the limitations provided in this section and residing in a dwelling house owned by him which is a constituent part of his real property or residing in a dwelling house owned by him which is assessed as real property but which is situated on land owned by another or others, or residing as a tenant shareholder in a cooperative or mutual housing corporation, shall be entitled, annually, on proper claim being made therefor, to a deduction against the tax or taxes assessed against such real property, to an amount not exceeding the amount of said tax, the proportionate share of said tax attributable to his unit, or the sum provided in this section, whichever is the lesser, but no such deduction from taxes shall be in addition to any other deduction or exemption from taxes to which said person may be entitled, except a veteran's deduction provided under P.L.1963, c.171 (C.54:4-8.10 et seq.). A citizen and resident granted a deduction pursuant to this

section may receive in addition any homestead rebate or credit provided by law.

For the purposes of this section, the annual income limitation shall be: \$5,000.00 for any year prior to 1981; \$8,000.00 for the year 1981; \$9,000.00 for the year 1982; and \$10,000.00 for year 1983 and each year thereafter.

The sum deducted pursuant to this section shall not exceed: in any year prior to 1981, \$160.00; in the year 1981, \$200.00; in the year 1982, \$225.00; and in the year 1983 and in each year thereafter, \$250.00.

For the purposes of this act:

a. The income of a married person shall be deemed to include an amount equal to the income of the spouse during the applicable income year, except for such portion of that year as the two were living apart in a state of separation, whether under judicial decree or otherwise.

b. The requirement of ownership shall be satisfied by the holding of a beneficial interest in the dwelling house where legal title thereto is held by another who retains a security interest in the dwelling house.

3. Section 5 of P.L.1963, c.172 (C.54:4-8.44) is amended to read as follows:

C.54:4-8.44 Facts essential to support claims for deduction.

5. Every fact essential to support a claim for a deduction hereunder shall exist on October 1 of the pretax year, except as in this section otherwise provided. Every application by a claimant therefor shall establish that he is or will be on or before December 31 of the pretax year 65 or more years of age or on that date was permanently and totally disabled, and that he was, on October 1 of the pretax year, (a) a citizen and resident of this State for the period required, (b) the owner of a dwelling house which is a constituent part of the real property for which the deduction is claimed, the owner of a dwelling house which is assessed as real property but which is situated on land owned by another or others, or residing as a tenant shareholder in a cooperative or mutual housing corporation, (c) residing in said dwelling house. Said application shall also establish that his anticipated income, including the income of his or her spouse, for the tax year will not exceed the applicable annual income limitation set forth in section 2 of P.L.1963, c.172 (C.54:4-8.41). In the

case of a claim for a deduction by a person who is permanently and totally disabled, said application shall include a physician's certificate verifying the claimant's permanent and total disability. The Director of the Division of Taxation may promulgate rules and regulations prescribing the form and content of the certificate.

In the case of claims for a deduction authorized by section 4 of this amendatory and supplementary act every application by a claimant therefor shall establish that he is or will be on or before December 31 of the pretax year 55 or more years of age and was 55 or more years of age at the time of the death of the decedent and unmarried and that he was, on October 1 of the pretax year, (a) a citizen and resident of this State for the period required, (b) the owner of a dwelling house which is a constituent part of the real property for which the deduction is claimed, or the owner of a dwelling house which is assessed as real property but which is situated on land owned by another or others, or residing as a tenant shareholder in a cooperative or mutual housing corporation, (c) residing in said dwelling house. Said application shall also establish that his anticipated income for the tax year will not exceed the applicable annual income limitation. The collector or the assessor of the taxing district as the case may be shall establish whether the deceased spouse of the claimant received a deduction.

4. Section 7 of P.L.1963, c.172 (C.54:4-8.46) is amended to read as follows:

C.54:4-8.46 Tenants in common, joint tenants, tenants by entirety, partners, and fiduciaries; rights to deductions.

7. Where title to property as to which a deduction is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, claimant shall not be allowed a deduction in an amount in excess of his proportionate share of the taxes assessed against said property, which proportionate share, for the purposes of this act, shall be deemed to be equal to that of each of the other tenants, unless it is shown that the interests in question are not equal, in which event claimant's proportionate share shall be as shown. Nothing herein shall preclude more than one tenant, whether title be held in common or joint tenancy, from claiming a deduction from the taxes assessed against the property so held, but no more than the equivalent of one full deduction in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, such deduction shall be apportioned between or among them in proportion to their interest. Prop-

erty held by husband and wife, as tenants by the entirety, shall be deemed wholly owned by each tenant, but no more than one deduction in regard to such property shall be allowed in any year. Right to claim a deduction hereunder shall extend to property the title to which is held by a partnership, to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim such deduction hereunder, but not to property the title to which is held by a corporation; except that a residential shareholder in a cooperative or mutual housing corporation shall be entitled to claim a deduction he is otherwise eligible to receive, to the extent of the proportionate share of the taxes assessed against the real property of the corporation, or any other entity holding title, attributable to his unit therein.

5. Section 1 of P.L.1963, c.171 (C.54:4-8.10) is amended to read as follows:

C.54:4-8.10 Definitions.

1. As used in this act:

(a) "Active service in time of war" means active service at some time during one of the following periods:

The Vietnam conflict, December 31, 1960, to the date of termination as proclaimed by the Governor;

The Korean conflict, June 23, 1950 to July 27, 1953;

World War II, December 7, 1941 to September 2, 1945;

World War I, April 6, 1917 to November 11, 1918, and in the case of service with the United States military forces in Russia, April 6, 1917 to April 1, 1920;

Spanish-American War, April 21, 1898 to August 13, 1898;

Civil War, April 15, 1861 to May 26, 1865; or, as to any subsequent war, during the period from the date of declaration of war to the date on which actual hostilities shall cease.

(b) "Assessor" means the assessor, board of assessors or any other official or body of a taxing district charged with the duty of assessing real and personal property for the purpose of general taxation.

(c) "Collector" means the collector or receiver of taxes of a taxing district.

(d) "Honorably discharged or released under honorable circum-

stances from active service in time of war," means and includes every form of separation from active, full-time duty with military or naval pay and allowances in some branch of the Armed Forces of the United States in time of war, other than those marked "dishonorable," "undesirable," "bad conduct," "by sentence of general court martial," "by sentence of summary court martial" or similar expression indicating that the discharge or release was not under honorable circumstances. A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the armed forces rendered on a voluntary and part-time basis without pay, or a release from or deferment of induction into the active military or naval service shall not be deemed to be included in the aforementioned phrase.

(e) "Pre-tax year" means the particular calendar year immediately preceding the "tax year."

(f) "Resident" means one legally domiciled within the State of New Jersey. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this act. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the claimant.

(g) "Tax year" means the particular calendar year in which the general property tax is due and payable.

(h) "Veteran" means any citizen and resident of this State honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

(i) "Veteran's deduction" means the deduction against the taxes payable by any person, allowable pursuant to this act.

(j) "Surviving spouse" means the surviving wife or husband of any of the following, while he or she is a resident of this State, during widowhood or widowerhood:

1. A citizen and resident of this State who has died or shall die while on active duty in time of war in any branch of the Armed Forces of the United States; or
2. A citizen and resident of this State who has had or shall hereafter have active service in time of war in any branch of the Armed Forces of the United States and who died or shall die

while on active duty in a branch of the Armed Forces of the United States; or

3. A citizen and resident of this State who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

(k) "Cooperative" means a housing corporation or association incorporated or organized under the laws of New Jersey which entitles a shareholder thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by the corporation or association;

(l) "Mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of section 607 of the "National Defense Housing Act," Pub. L.76-849 (42 U.S.C. § 1521 et seq.), which acquired a National Defense Housing Project pursuant to that act.

6. Section 6 of P.L.1963, c.171 (C.54:4-8.15) is amended to read as follows:

C.54:4-8.15 Facts essential to support claim for deduction.

6. Every fact essential to support a claim for a veteran's deduction hereunder shall exist on October 1 of the pretax year and in the case of an application by a veteran such application shall establish that the claimant was, on October 1 of the pretax year, (a) a veteran, as herein defined, (b) the owner of the legal title to the property as to which the veteran's deduction is claimed and (c) a citizen and resident of this State and, in the case of an application by a surviving spouse, as herein defined, such application shall establish that the surviving spouse was, on October 1 of the pretax year, (a) the owner of the legal title to the property as to which the veteran's deduction is claimed, (b) that he or she has not remarried and (c) that he or she is a resident of this State. For purposes of establishing a claim, a tenant shareholder in a cooperative or a mutual housing corporation shall be deemed the owner of legal title to his proportionate share of the taxable value of the real property of the corporation or any other entity holding title.

7. Section 9 of P.L.1963, c.171 (C.54:4-8.18) is amended to read as follows:

C.54:4-8.18 Continuance to deduction right; change in status.

9. Where title to property as to which a veteran's deduction is claimed is held by claimant and another or others, either as tenants

in common or as joint tenants, a claimant shall not be allowed a veteran's deduction in an amount in excess of his or her proportionate share of the taxes assessed against said property, which proportionate share, for the purposes of this act, shall be deemed to be equal to that of each of the other tenants, unless the conveyance under which title is held specifically provides unequal interests, in which event claimant's interest shall be as specifically established in said conveyance. Property held by husband and wife, as tenants by the entirety, shall be deemed to be wholly owned by each tenant. Nothing herein shall preclude more than one tenant, whether title be held in common, joint tenancy or by the entirety, from claiming a veteran's deduction from the tax assessed against the property so held. Right to claim a veteran's deduction hereunder shall extend to property title to which is held by a partnership, to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim a veteran's deduction hereunder, but not to property the title to which is held by a corporation, except that a tenant shareholder in a cooperative or mutual housing corporation shall be entitled to claim a veteran's deduction to the extent of his proportionate share of the taxes assessed against the real property of the corporation or any other entity holding title.

C.54:4-8.55 Notification of deduction; credit to corporation, cooperative, shareholder.

8. a. When an application by a shareholder in a cooperative or mutual housing corporation is allowed, the assessor shall promptly notify the corporation, or any other entity holding title, setting forth the amount of the deduction, and shall send a duplicate of the notice to the shareholder.

b. The tax collector shall credit to each cooperative or mutual housing corporation the total amount of deductions allowed to its shareholders in each tax year against the taxes payable by the corporation, or any other entity holding title, in that year.

c. A cooperative or mutual housing corporation shall enter in its books a credit to each shareholder to whom a deduction has been allowed, and shall proportionately reduce the periodic charges made to him on account of taxes. Each statement of periodic charges presented to the shareholder shall distinctly indicate: (1) his proportional share of the corporation's taxes, or of the taxes of any other entity holding title, without allowance for the deduction, and (2) the amount by which that share is reduced for the period covered by the statement; and a copy of the statement shall be filed with the tax collector.

d. If a shareholder to whom a deduction has been allowed shall cease to be eligible for the deduction in the course of a tax year for which the deduction was allowed, the corporation shall promptly notify the tax collector who shall take appropriate action for the collection or adjustment of the amount of the deduction not actually used.

C.54:4-8.56 Regulations.

9. The Director of the Division of Taxation in the Department of the Treasury is authorized to adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to adapt the procedures for seeking, granting and allowing deductions under this act to the exigencies of time affecting the initial years of its operation.

10. This act shall take effect immediately, and shall apply to the tax year beginning January 1 next following the first October 1 subsequent to its enactment.

Approved January 3, 1990.

CHAPTER 253

AN ACT concerning joint self-insurance of local units of government and amending P.L.1983, c.372.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1983, c.372 (C.40A:10-36) is amended to read as follows:

C.40A:10-36 Joint insurance funds permitted.

1. The governing body of any local unit, including any contracting unit as defined in section 2 of P.L.1971, c.198 (C.40A:11-2), may by resolution or ordinance, as appropriate, agree to join together with any other local unit or units to establish a joint insurance fund for the purpose of insuring against liability, property damage, and workers' compensation as provided in Articles 3 and 4 of chapter 10 of Title 40A of the New Jersey Statutes and may appropriate such moneys as are required therefor.

2. Section 2 of P.L.1983, c.372 (C.40A:10-37) is amended to read as follows:

C.40A:10-37 Insurance fund commissioners; appointment, terms, compensation.

2. Upon the establishment of a joint insurance fund, the officer or body of each local unit having the power to make appointments for the unit shall appoint one member of the governing body or employee of the local unit to represent that local unit as insurance fund commissioner. Each local unit may also appoint an alternate insurance fund commissioner who shall be a member of the governing body or employee of the local unit. Commissioners and alternates who are members of the governing body shall hold office for two years or for the remainder of their terms of office as members of the governing body, whichever shall be less, and until their successors shall have been duly appointed and qualified. Commissioners and alternates who are employees of the local unit shall hold office at the pleasure of the appointing officer or body. In the event that the number of local units represented is an even number, an additional commissioner shall be annually selected by the participating local units on a rotating basis. If the total number of member local units exceeds seven, the commissioners shall annually meet to select not more than seven commissioners to serve as the executive committee of the fund. The commissioners may also select not more than seven commissioners to serve as alternates on the executive committee. The executive committee shall exercise the full power and authority of the commission. Vacancies on the executive committee shall be filled by election of the entire board. The commissioners shall serve without compensation, except that the commissioners may vote to pay themselves a fee for attending commission meetings not to exceed \$150 per meeting and the commissioners may vote to pay commissioners who serve on an executive committee a fee for attending executive committee meetings not to exceed \$150 per meeting. Any vacancy in the office of insurance fund commissioner or alternate, caused by any reason other than expiration of term as a member of the local unit governing body, shall be filled by the appointing authority in the manner generally prescribed by law. The commission shall annually elect a chairman and a secretary.

3. Section 8 of P.L.1983, c.372 (C.40A:10-43) is amended to read as follows:

C.40A:10-43 Commissioners may amend bylaws, approval by Commissioner of Insurance.

8. The commissioners may, from time to time, amend the bylaws and plan of risk management of the fund; provided, however, that no such amendment shall take effect until approved as hereinafter provided.

a. The commissioners shall file with the Commissioner of Insurance for his approval a copy of any amendment to the bylaws of the fund upon approval, by resolution, of the governing bodies of three fourths of the member local units, or any amendment to the plan of risk management, upon adoption by the commissioners.

b. Upon receipt of the amendment, the Commissioner of Insurance shall immediately notify the Commissioner of Community Affairs and shall immediately provide that commissioner with a copy of the amendment. The Commissioner of Community Affairs, or by his designation, the Director of the Division of Local Governmental Services in the Department of Community Affairs, is empowered to approve or disapprove any amendment on the basis of whether or not it conforms with rules and regulations governing the custody, investment or expenditure of public moneys. Within 25 working days of the receipt of the amendment, the Commissioner of Community Affairs, or his designee, shall notify the Commissioner of Insurance of his approval or disapproval. As a condition of approval, the Commissioner of Community Affairs, or his designee, may require a modification of the amendment in order to bring its provisions into conformity with rules and regulations governing the custody, investment or expenditure of public moneys. No amendment disapproved by the Commissioner of Community Affairs, or his designee, shall take effect. If the Commissioner of Community Affairs, or his designee, fails to approve or disapprove any amendment within 25 working days of receipt, the amendment shall be deemed to be approved.

c. Within 30 working days of receipt, the Commissioner of Insurance shall either approve or disapprove any amendment to the bylaws or plan of risk management. If the Commissioner of Insurance shall fail to either approve or disapprove the amendment within that 30 working day period, the amendment shall be deemed approved.

d. If any amendment shall be disapproved, the Commissioner of Insurance shall set forth in writing the reasons for disapproval. Upon the receipt of the notice of disapproval, the commissioners of the affected joint insurance fund may request a public hearing. The public hearing shall be convened by the Commissioner of Insurance in a timely manner.

e. Within 90 days after the effective date of any amendment to the bylaws, a member local unit which did not approve the amendment may withdraw from the fund provided that it shall remain liable for its share of any claim or expense incurred by the fund during its period of membership.

4. This act shall take effect immediately.

Approved January 3, 1990.

CHAPTER 254

AN ACT concerning educational services commissions, amending P.L.1968, c.243 and repealing section 5 of P.L.1986, c.9.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1968, c.243 (C.18A:6-51) is amended to read as follows:

C.18A:6-51 Definitions.

1. Definitions:

(a) "Educational Services Commission" means an agency established or to be established in one or more counties for the purpose of carrying on programs of educational research and development and providing to public school districts such educational and administrative services as may be authorized pursuant to rules of the State Board of Education.

(b) "Commission" means educational services commission.

(c) "State board" means the State Board of Education.

(d) "Commissioner" means the Commissioner of Education.

(e) "Commission expenses" means those funds devoted to or required for the regular or ordinary operating expenses of the commission, including administrative, maintenance and salary expenses, and purchase or rental of real and personal property necessary for the operation of the commission, but excluding program or service expenses.

(f) (Deleted by amendment, P.L.1989, c.254.)

(g) "Member district" means a public school district which by local board resolution joins the original petition to the State Board of Education for approval to establish an educational services commission, or subsequently becomes a member district by local board resolution and upon approval of the Board of Directors of the commission.

(h) "School administrator" means the superintendent or chief school administrator.

(i) "Board of Directors" means those members elected by the representative assembly to act on commission business on behalf of the assembly.

(j) "Program or service expenses" means those funds devoted to or required for the provision of a program or service by the commission, including but not limited to the administrative, maintenance and salary expenses and the purchase or rental of real or personal property necessary for the provision of the program or service.

(k) "Representative assembly" means a governing body of the educational services commission composed of an elected representative from each member district.

2. Section 2 of P.L.1968, c.243 (C.18A:6-52) is amended to read as follows:

C.18A:6-52 Establishment of commission; petition.

2. a. Whenever five or more boards of education in any county or in any two or more counties and the commissioner after study and investigation shall deem it advisable to establish a county educational services commission, such boards of education may petition the State Board of Education for permission to establish such a commission. A report shall be attached to such petition setting forth the kind or kinds of educational and administrative services and programs which are deemed to be needed and proposed to be provided, an estimate of the cost of providing such services and programs, a method of financing the expenditures of such commission, including a detailed budget which projects anticipated costs and identifies anticipated sources of revenue until such can be financed under its first regularly adopted budget, and any other data or information deemed pertinent.

The State board, after studying the petition and report, shall determine whether there is a need for such a commission and whether its operation is feasible. If the State board finds that the need exists and further finds that the operation of a commission will be feasible, it shall approve the petition and so notify the petitioning boards of education and the county superintendent or county superintendents of the county or counties, as the case may be, in which such boards of education are located.

b. Commissions of less than five member districts established prior to the effective date of this amendatory act may continue to provide services and programs pursuant to this act.

3. Section 3 of P.L.1968, c.243 (C.18A:6-53) is amended to read as follows:

C.18A:6-53 Approval of establishment; commissioners, first meeting.

3. Whenever the boards of education and the county superintendent or superintendents, as the case may be, receive notification that the State board approves the establishment of a commission, the county superintendent, or the county superintendents by agreement if more than one county is included, shall instruct each board of education to elect one of its members or the superintendent or chief school administrator, to represent the district on the commission, and shall fix a date and place for the first meeting of the representative assembly.

4. Section 4 of P.L.1968, c.243 (C.18A:6-54) is amended to read as follows:

C.18A:6-54 Representative assembly, organization; election of board of directors.

4. The first representative assembly shall organize upon the call of the county superintendent or county superintendents, as the case may be. Thereafter the representative assembly shall organize annually during the first week of June and meet at other times as necessary. The representative assembly shall elect, by a majority vote, from among its members a board of directors to serve until the next annual organization meeting. Upon election, the board of directors shall elect a president and vice president who shall also serve until the next organization meeting.

5. Section 5 of P.L.1968, c.243 (C.18A:6-55) is amended to read as follows:

C.18A:6-55 Membership of board.

5. The board of directors shall consist of 15 or more members of the representative assembly. The board of directors of a commission which has 15 or fewer member districts shall be comprised of all members of the representative assembly.

Each member of the board of directors shall have one vote. Members shall serve without compensation but shall be entitled to reimbursement for all reasonable and necessary expenses.

6. Section 6 of P.L.1968, c.243 (C.18A:6-56) is amended to read as follows:

C.18A:6-56 Election; terms.

6. Members of the representative assembly shall be elected by their respective boards of education at the annual organization meeting. An individual so elected shall be a member of the district's board of education or the district's superintendent or chief school administrator. Should the representative cease to be a member or employee of the board of education which elected the representative, that position shall become vacant and a replacement shall be selected by that member district in a like manner to fill the vacancy for the remainder of the term for which the vacating member had been elected.

7. Section 7 of P.L.1968, c.243 (C.18A:6-57) is amended to read as follows:

C.18A:6-57 Meetings; transaction of business.

7. The board of directors shall meet for the transaction of business at least once every two months throughout the year. A written record of all action taken by the board of directors shall be forwarded to the members of the representative assembly after each meeting.

The board shall not enter into a contract until the same has been presented and passed upon at a regularly called meeting of the board. The board may pay a bill or a demand for money against it by action of the board or as provided in section 4 of P.L.1982, c.196 (C.18A:19-4.1).

The board may designate its president, its vice-president and one other member of the board as an executive committee to administer the affairs of the board of directors between regularly convened meetings of the board.

A quorum shall consist of a majority of the members of the board of directors.

8. Section 8 of P.L.1968, c.243 (C.18A:6-58) is amended to read as follows:

C.18A:6-58 Secretary; compensation; term; bond.

8. The board shall appoint a suitable person to be its secretary and shall fix his compensation and term of employment. The secretary shall before entering upon the duties of his office execute and deliver to the board a bond in a sum to be fixed by it, with surety to be approved by the board, conditioned for the faithful performance of the duties of his office. The board may accept the bond of a company authorized to execute surety bonds, and may pay the annual premium or fee for the bond as a commission expense.

9. Section 9 of P.L.1968, c.243 (C.18A:6-59) is amended to read as follows:

C.18A:6-59 Powers and duties.

9. The powers and duties of the secretary of the board of directors shall be prescribed by the board, including but not limited to the following:

- (a) Record in a suitable book all proceedings of the board.
- (b) Pay out on warrants signed by the president and another member of the board.
- (c) Report to the board at each regular meeting:
 - (1) The amount of the total appropriations and the cash receipts for each account;
 - (2) The amount for which warrants have been drawn and the amount of orders for all contractual obligations since the date of his last report;
 - (3) The accounts against which the warrants have been drawn and the accounts against which the contractual obligations are chargeable; and
 - (4) The cash balance and free balance to the credit of each account;
- (d) Notify all members of the board of all regular meetings of the board.
- (e) Notify all members of the board of special meetings of the board when ordered by the president to do so, or when requested to do so by a petition in writing signed by at least 1/3 of the members of the board.
- (f) During the month of November in each year, report to the board a detailed audit report of its financial transactions during the preceding fiscal year, and file a copy thereof with the county superintendent of schools, or county superintendents, as the case may be, of the county or counties in which the commission is located. The report shall itemize all expenses, indicating which are commission expenses and which are expenses of each program or service offered. Where appropriate, the report shall indicate which commission expenses can be reasonably charged to specific programs or services. The report shall also indicate the amount and disposition of revenues derived from membership charges, if any, and from each program or service.

New Jersey State Library

(g) Notify all members of the representative assembly of meetings of the board of directors and record all transactions.

10. Section 10 of P.L.1968, c.243 (C.18A:6-60) is amended to read as follows:

C.18A:6-60 Superintendent or chief school administrator.

10. The board of directors shall appoint a suitable person to be the superintendent or chief school administrator of the commission. Such person shall possess a certificate appropriate to the position of superintendent or chief school administrator as prescribed under rules of the State Board of Examiners. The superintendent or chief school administrator shall have a seat on the board of directors, but no vote. He shall have the same powers as are conferred upon superintendents of schools by Title 18A of the New Jersey Statutes.

11. Section 11 of P.L.1968, c.243 (C.18A:6-61) is amended to read as follows:

C.18A:6-61 Body corporate.

11. The board of directors shall be a body corporate, and shall be known as "the board of directors of " (here shall be inserted a suitable name to be adopted by the board of directors with the approval of the State Board of Education, but such name shall contain at least the words "Educational Services Commission").

The board of directors may purchase, lease-purchase or lease personal or real property in accordance with rules and regulations to be adopted by the State board of education.

12. Section 12 of P.L.1968, c.243 (C.18A:6-62) is amended to read as follows:

C.18A:6-62 Budget; preparation and adoption.

12. The representative assembly shall annually, on or before January 15, adopt a budget for the ensuing fiscal year, which shall contain the estimated cost of providing each service or program, and submit such budget within three days of adoption to the county superintendent for approval.

By December 1 prior to the adoption of the budget the board shall notify each member board of education of the fees to be charged for each service and program for the ensuing school year and of the method by which the commission expenses shall be funded.

The commission expenses may be paid from one or more of the following sources:

- a. unappropriated balances from the prebudget year;
- b. anticipated surpluses to be generated by fees for programs or services;
- c. payments by member districts;
- d. anticipated miscellaneous revenues.

If payments shall be made by member districts to pay for all or part of the commission expenses, each member district's share shall be determined as the proportion which the total public school enrollment in the school district on September 30 of the year in which the budget is made bears to the total public school enrollment for all member districts on said September 30 or in any other manner agreed to by two-thirds of the members of the representative assembly. Payment of the member district's share of the commission expense, when so determined, shall be an obligation of a member school district, and payments shall be made during the school year for which such budget shall have been made in a manner determined by the representative assembly.

13. Section 13 of P.L.1968, c.243 (C.18A:6-63) is amended to read as follows:

C.18A:6-63 Services; contracts.

13. a. The representative assembly shall from time to time determine what services and programs shall be provided by the commission, subject to approval of and pursuant to rules of the State Board of Education. It shall determine the fee to be charged for providing each service and program, and enter into contracts with school districts, whether member districts of the commission or not, to provide any or all such services and programs. The commission may enter into contracts to provide these services and programs to nonpublic schools. Such contracts for member districts may be for terms not exceeding 10 years, and a member school district, having so contracted, may not withdraw from membership in the commission during the term of such a contract.

b. Commissions may enter into contracts with other public and private agencies for the provision of approved services and programs to participating public school districts and nonpublic schools. These contractual arrangements shall conform to rules and regulations of the State Board of Education and be approved by the county superintendent or superintendents, as the case may be.

14. Section 14 of P.L.1968, c.243 (C.18A:6-64) is amended to read as follows:

C.18A:6-64 Withdrawal of membership.

14. Except as provided in section 13 of this act, a school district which is a member of a commission may withdraw from membership by adopting a resolution setting forth its intention to withdraw and the reason or reasons for the withdrawal, and filing with the county superintendent or superintendents, as the case may be, and secretary of the board of directors a certified copy of such resolution. The withdrawal shall be effective at the conclusion of the third full school year after the filing of such resolution with the secretary of the board of directors.

15. Section 17 of P.L.1968, c.243 (C.18A:6-67) is amended to read as follows:

C.18A:6-67 Funds and grants; contracting for, receiving and administration.

17. The board of directors may enter into a contract with and receive and administer funds and grants from any individual or agency, including but not limited to, agencies of the federal government of the United States, provided that the funds or grants are for programs or services for which the commission has received approval from the State board pursuant to sections 2 and 19 of P.L.1968, c.243 (C.18A:6-52 and 18A:6-69).

16. Section 19 of P.L.1968, c.243 (C.18A:6-69) is amended to read as follows:

C.18A:6-69 Enlargement, alteration of purposes.

19. The representative assembly may enlarge or alter the purposes for which the formation of the commission was approved, upon application to and approval by the State Board of Education.

17. Section 20 of P.L.1968, c.243 (C.18A:6-70) is amended to read as follows:

C.18A:6-70 Application for admission; representative.

20. A board of education not a member of a commission at the time such commission was established shall be admitted to such commission upon application to the representative assembly not less than three months prior to the annual organization meeting of the representative assembly.

Repealer.

18. Section 5 of P.L.1986, c.9 (C.18A:6-62.1) is repealed.

19. This act shall take effect July 1 next following enactment, but

the county superintendent may convene the representative assembly as provided in section 4 of this act prior to that date and the representative assembly may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 3, 1990.

CHAPTER 255

A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1989 and regulating the disbursement thereof," approved June 30, 1988 (P.L.1988, c.47).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. In addition to the amounts appropriated under P.L.1988, c.47, there is appropriated out of the General Fund, or such other sources of funds specifically indicated or as may be applicable, the following sums for the purposes specified:

CLAIMS

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION 4876 Palisades Interstate Park Commission

Borough of Alpine, c/o Logan and Logan, Counselors at Law, 132 Engle Street, P.O. Box 664, Englewood, N.J. 07631, Attention: James P. Logan, Attorney at Law; Borough of Fort Lee, c/o Kenneth W. Herbert, Attorney at Law, 111 Grand Avenue, Palisades Park, N.J. 07650; Borough of Englewood Cliffs, c/o Gittleman, Muhlstock, and Meyers, Attorneys at Law, 39 Hudson Street, Court House Towers, Hackensack, N.J. 07601, Attention: Steven Muhlstock, Attorney at Law, for payment of municipal taxes for land situated within the respective boroughs:

Borough of Alpine	\$34,000.00
Borough of Fort Lee	\$27,320.00
Borough of Englewood Cliffs	<u>\$37,021.00</u>
Total, Department of Environmental Protection	<u>\$98,341.00</u>

The sums hereinabove appropriated for awards totalling \$98,341.00 shall be paid by the Palisades Interstate Park Commission from the

net share of revenues which it derives from the operation of gasoline stations in the New Jersey section of the Palisades Interstate Parkway.

82 DEPARTMENT OF THE TREASURY
76 Management and Administration

Martin Carluccio, 162 Wood Street, Rutherford, N.J. 07070, for reimbursement for loss of personal property	<u>\$1,700.00</u>
Total, Department of the Treasury	<u>\$1,700.00*</u>
Total Appropriations, Claims	<u>\$100,041.00*</u>

2. This act shall take effect immediately.

Approved January 3, 1990.

*Reduced by line-item veto of the Governor. See statement following.

Statement to Chapter 255
(Assembly Bill No. 3901)

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I am attaching to Assembly Bill No. 3901 at the time of signing it, this statement of the items or parts thereof to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill would appropriate \$388,873.50 in payment of certain claims against the State. Of this sum, \$98,341 represents claims against the Palisades Interstate Park Commission and \$290,532.50 is for claims that would be paid from the General Fund.

The appropriation from the Palisades Interstate Park Commission is to satisfy claims for payments in lieu of municipal taxes for land which encompasses part of the Parkway. These claims are to be paid from the net share of revenues the Commission derives from the operation of gasoline stations along the New Jersey section of the Parkway. The Borough of Alpine would receive \$34,000; the Borough of Fort Lee, \$27,320; and the Borough of Englewood Cliffs, \$37,021. Because the Commission has more than adequate resources to meet this liability, I am supportive of this appropriation.

The appropriation of \$290,532.50 from the General Fund is more troubling. This appropriation would be used to compensate a variety of claims made against the State, including one claim where the courts have found the State to have no liability and several claims for tax refunds that were not filed before the expiration of the applicable statute of limitations period. While I may personally sympathize with the individuals who have made these claims against the State, the State is not legally liable for these claims, and I do not believe that it is appropriate to extend the State's liabilities and to expend the State's resources on these items rather than on the many worthwhile causes competing for scarce State monies in this period of fiscal constraints.

I am, however, prepared to make an exception in the case of Martin Carluccio, a Division of Motor Vehicles employee, who would receive \$1,700 under this bill. Upon returning to work after his lunch hour, Mr. Carluccio saw several of his fellow employees racing from the building in pursuit of someone who had stolen a written driver's license examination. Mr. Carluccio pursued the thief and in the course of the scuffle lost a valuable diamond and gold ring. This action by Mr. Carluccio was above and beyond his duties and responsibilities, and he should be reimbursed for his loss.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

<u>Page 2, Section 1, Lines 4-42:</u>	Delete in entirety
<u>Page 3, Section 1, Line 6:</u>	Delete "\$290,532.50" insert "\$1,700.00"
<u>Page 3, Section 1, Line 7:</u>	Delete "\$388,873.50" insert "\$100,041.00"

Respectfully,
Thomas H. Kean
Governor

CHAPTER 256

AN ACT concerning net weight standards for flour and supplementing Title 51 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.51:1-29.2 Net weight standards pertaining to flour; adopted.

1. Notwithstanding any other provision of law to the contrary, the State Superintendent shall adopt the net weight standards pertaining to flour as set forth in section 3.17 of Chapter 3 of the National Bureau of Standards Handbook 133, Third Edition.

2. This act shall take effect immediately.

Approved January 3, 1990.

CHAPTER 257

AN ACT establishing The Advisory Commission on Women Veterans of New Jersey in the Department of Military and Veterans' Affairs and amending and supplementing P.L.1987, c.194.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. The Advisory Commission on Women Veterans of New Jersey, established pursuant to section 1 of P.L.1987, c.194, together with all its powers, functions, duties, and members is continued and established in the Department of Military and Veterans' Affairs.

2. Section 1 of P.L.1987, c.194 is amended to read as follows:

1. There is created a temporary commission to be known as "The Advisory Commission on Women Veterans of New Jersey" which shall consist of the following members, all of whom shall be citizens of the State:

a. The Director of the Division on Women in the Department of Community Affairs and the Administrator of Veterans' Affairs in the Department of Military and Veterans' Affairs, *ex officio*;

b. Three members to be appointed by the Governor, not more than two of whom shall be of the same political party, but at least

two of whom shall be members of a New Jersey veterans' group or organization;

c. Two members to be appointed by the President of the Senate, not more than one of whom shall be of the same political party, but at least one of whom shall be a member of a New Jersey veterans' group or organization; and

d. Two members to be appointed by the Speaker of the General Assembly, not more than one of whom shall be of the same political party, but at least one of whom shall be a member of a New Jersey veterans' group or organization.

Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. All members shall serve without compensation but shall be reimbursed for their expenses actually incurred in the performance of their duties.

3. This act shall take effect immediately.

Approved January 3, 1990.

CHAPTER 258

AN ACT concerning the appointing powers of mayors in certain municipalities and amending and supplementing P.L.1950, c.210.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 3-13 of P.L.1950, c.210 (C.40:69A-43) is amended to read as follows:

C.40:69A-43 Departments, limits.

3-13. (a) The municipality shall have a department of administration and such other departments, not less than two and not exceeding nine in number, as council may establish by ordinance. All of the administrative functions, powers and duties of the municipality, other than those vested in the offices of the municipal clerk and the municipal tax assessor, shall be allocated and assigned among and within such departments.

The offices of the municipal clerk and the municipal tax assessor shall be subject to such general administrative procedures and requirements as are departments of the municipal government, includ-

ing, but not limited to, the preparation and submission of an annual budget and of such periodic budget reports as are generally required of departments, and such accounting controls, central purchasing practices, personnel procedures and regulations, and central data processing services as are generally required of departments.

(b) Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor. The mayor shall, with the advice and consent of the council, appoint the municipal assessor and all other municipal officers not assigned within municipal departments, subject to the terms of any general law providing for these offices, unless a different appointment procedure is clearly required by this plan of government or by general law.

(c) The mayor may in his discretion remove any department head and, subject to any general provisions of law concerning term of office or tenure, any other municipal executive officer who is not a subordinate departmental officer or employee, after notice and an opportunity to be heard. Prior to removal the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the 20th day after the filing of such notice unless the council shall prior thereto have adopted a resolution by a two-thirds vote of the whole number of the council, disapproving the removal.

(d) Department heads shall appoint subordinate officers and employees within their respective departments and may, with approval of the mayor, remove such officers and employees, subject to the provisions of Title 11A of the New Jersey Statutes, where that Title is effective in the municipality, or other general law.

(e) Notwithstanding the foregoing provisions of this section, in any city of the first class, there shall be, and in any municipality having a population of 15,000 or more, there may be, a board of alcoholic beverage control which shall exercise the powers conferred upon municipal boards of alcoholic beverage control under Title 33 of the Revised Statutes. Such boards shall be comprised of three members, no more than two of whom shall be of the same political party, who shall be appointed by the mayor, with the advice and consent of the council, each to serve for a term of three years, provided that of those first appointed, one shall be appointed to serve for a term of one year, one for two years, and one for three years.

Any vacancy in such office shall be filled in the same manner as the original appointment, for the balance of the unexpired term. Except in cities of the first class the members of such board shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their duties; in cities of the first class, the members of such board shall receive such compensation as shall be established by ordinance of the municipality. They shall be removable by the mayor for cause. Any person appointed hereunder shall not be subject to the provisions of Title 11A of the New Jersey Statutes, and no such person shall be a member of the city council.

Nothing in this subsection shall be construed to limit the general power of the municipal council under this act to establish, alter and abolish offices, boards and commissions in any municipality other than a city of the first class.

(f) Whenever in any municipality with a population greater than 100,000, according to the latest federal decennial census, the governing body is authorized by any provision of general law to appoint the members of any board, authority or commission, such power of appointment shall be deemed to vest in the mayor with the advice and consent of the council. In all other municipalities, whenever the governing body is authorized by any provision of general law to appoint the members of any board, authority or commission, such power of appointment shall be deemed to vest in the mayor with the advice and consent of the council, unless the specific terms of that general law clearly require a different appointment procedure or appointment by resolution, in which case the appointment shall be by the council.

2. The term of any appointment made subsequent to November 26, 1985 by the governing body of any city of the first class shall expire 30 days after the effective date of this act if the provisions of subsection (f) of section 3-13 of P.L.1950, c.210 (C.40:69A-43) would otherwise have granted the power of appointment to the mayor with the advice and consent of the council prior to the effective date of P.L.1985, c.374.

3. This act shall take effect immediately.

Approved January 4, 1990.

CHAPTER 259

AN ACT establishing C. Clyde Ferguson Law Scholarships, supplementing chapter 71 of Title 18A of the New Jersey Statutes, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.18A:71-40.1 Short title.

1. This act shall be known and may be cited as the "C. Clyde Ferguson Law Scholarship Act of 1989."

C.18A:71-40.2 C. Clyde Ferguson Law Scholarships; created.

2. There are created C. Clyde Ferguson Law Scholarships which shall be maintained by the State and awarded and administered pursuant to this act to students from disadvantaged or minority backgrounds enrolled in the Minority Student Program at Rutgers School of Law-Newark, and enrolled in the Rutgers School of Law-Camden and Seton Hall University School of Law.

C.18A:71-40.3 Scholarships awarded annually.

3. C. Clyde Ferguson Law Scholarships shall be awarded annually by the board of directors of the New Jersey Educational Opportunity Fund to 30 New Jersey law students from disadvantaged or minority backgrounds. Each of the participating law schools shall select 10 students to participate in the program.

C.18A:71-40.4 Requirements for scholarship recipients.

4. No person shall be awarded a C. Clyde Ferguson Law Scholarship unless:

- a. The person has been a resident of New Jersey for a period of not less than one year immediately prior to receiving the scholarship;
- b. The person has demonstrated financial need for the scholarship in accordance with standards to be established by the board of directors of the New Jersey Educational Opportunity Fund;
- c. The person has demonstrated high moral character, good citizenship, and dedication to American ideals; and
- d. The person has complied with all rules and regulations adopted pursuant to this act by the board of directors of the New Jersey Educational Opportunity Fund for the award, regulation and administration of the scholarship.

C.18A:71-40.5 Amount of scholarship.

5. The amount of a C. Clyde Ferguson Scholarship shall be established by the board of directors of the New Jersey Educational Opportunity Fund but shall not exceed the maximum amount of tuition, fees and on-campus housing charged at the Rutgers School of Law-Newark.

C.18A:71-40.6 Renewal of scholarship.

6. Each C. Clyde Ferguson Law Scholarship shall be renewable annually for up to four years except that each scholarship shall remain in effect only if the holder of the scholarship continues to have financial need, achieves satisfactory academic progress as defined by the law school in which the student is enrolled, continues to meet the eligibility criteria and guidelines established by the board of directors of the New Jersey Educational Opportunity Fund, and is regularly enrolled as a full-time student.

C.18A:71-40.7 Rules, regulations.

7. The board of directors of the New Jersey Educational Opportunity Fund shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

8. There is appropriated to the Department of Higher Education from the General Fund \$100,000.00* to implement the provisions of this act.

9. This act shall take effect immediately.

Approved January 4, 1990.

*Reduced by Governor's line-item veto. See statement following.

Statement to Chapter 259
(Senate Bill No. 1945 (Second Reprint))

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I am appending to Senate Bill No. 1945 (Second Reprint) at the time of signing it my statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill appropriates \$200,000 to create the C. Clyde Ferguson Law Scholarships to be awarded to students from disadvantaged or minority backgrounds enrolled at Rutgers School of Law-Newark, Rutgers School of Law-Camden and Seton Hall University School of Law.

C. Clyde Ferguson, Jr. was a Professor of Law at Rutgers School of Law-Newark. He also served as Dean of the Howard University Law School, United States Ambassador to Uganda and the United States Representative to the United Nations Economic and Social Council. At the time of his death in 1983, Ambassador Ferguson was the Henry L. Stimson Professor of Law at Harvard Law School.

I am in full agreement with the purposes behind this legislation, both in honoring Ambassador Ferguson and in enhancing opportunities for disadvantaged and minority law students. However, due to the State's current fiscal situation and the timing of this legislation, I do not believe that it is necessary to appropriate the full \$200,000 at this time. Because half the school year has passed, I believe that the appropriation in this legislation should be reduced to \$100,000. In this manner, the scholarships will be established, and further funding for subsequent school years may be included in later budget acts.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

Page 3, Section 8, Line 14: Delete "\$200,000.00" insert
 "\$100,000.00"

Respectfully,

Thomas H. Kean
 Governor

CHAPTER 260

AN ACT concerning the liabilities of trustees and officers of nonprofit corporations under certain circumstances and amending N.J.S.15A:2-8, N.J.S.15A:3-4 and N.J.S.15A:6-14.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.15A:2-8 is amended to read as follows:

Certificate of incorporation.

15A:2-8. Certificate of incorporation.

- a. The certificate of incorporation shall set forth:

- (1) The name of the corporation;

(2) The purpose or purposes for which the corporation is organized;

(3) If the corporation is to have members, the qualifications for members or that the qualifications shall be as set forth in the bylaws of the corporation;

(4) If the members are to be divided into classes, the relative right and limitations of the different classes of members to the extent those rights and limitations have been determined or that the rights and limitations shall be as set forth in the bylaws of the corporation;

(5) If the corporation is to have no members, that there shall be no members;

(6) The method of electing trustees or that the method shall be as set forth in the bylaws of the corporation;

(7) Any provision not inconsistent with this act or any other statute of this State, which the incorporators elect to set forth for the management and conduct of the affairs of the corporation, or creating, defining, limiting or regulating the powers of the corporation, its trustees and members or any class of members, including any provision which under this act is required or permitted to be set forth in the bylaws;

(8) The address, including actual location as well as postal designation, if different, of the corporation's initial registered office, and the name of the corporation's initial registered agent at that address;

(9) The number of trustees, not less than three, constituting the first board and the names and addresses of the persons who aim to serve as trustees, which addresses shall be either the residence address of the person or other address where the person regularly receives mail and which is not the address of the corporation;

(10) The names and addresses of the incorporators, which addresses shall be either the residence address of the person or other address where the person regularly receives mail and which is not the address of the corporation;

(11) The duration of the corporation if other than perpetual;

(12) The method of distribution of assets of the corporation upon dissolution, or that the distribution shall be as set forth in the bylaws of the corporation;

(13) If, pursuant to subsection b. of this section, the certificate

of incorporation is to be effective on a date subsequent to the date of filing, the effective date of the certificate;

(14) If, pursuant to the exception in paragraph (4) of subsection a. of section 15A:2-2, the name of the corporation does not include a term required thereby, a statement that the corporation could be organized pursuant to the provisions of Title 16 of the Revised Statutes, the applicable section of Title 16 of the Revised Statutes permitting that organization, and an undertaking to add the required term if the corporation ceases to be so organized.

b. An original and one copy of the certificate of incorporation shall be filed in the office of the Secretary of State. The corporate existence shall begin upon the effective date of the certificate, which shall be the date of the filing, or such later time, not to exceed 30 days from the date of filing, as may be set forth in the certificate. The filing shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and, after the corporate existence has begun, that the corporation has been incorporated under this act, except as against this State in a proceeding to cancel or revoke the certificate of incorporation or for voluntary dissolution of the corporation. The Secretary of State shall forward the copy of the certificate of incorporation to the Attorney General.

c. The certificate of incorporation may provide that a trustee or officer shall not be personally liable, or shall be liable only to the extent therein provided, to the corporation or its members for damages for breach of any duty owed to the corporation or its members, except that such provision shall not relieve a trustee or officer from liability for any breach of duty based upon an act or omission (1) in breach of such person's duty of loyalty to the corporation or its members, (2) not in good faith or involving a knowing violation of law or (3) resulting in receipt by such person of an improper personal benefit.

d. Notwithstanding the provisions of subsection c. of this section, the immunities provided for in this 1989 amendatory act shall apply to any corporation organized under Title 15A of the New Jersey Statutes which is established for the purposes provided for in P.L.1959, c.90 (C.2A:53A-7 et seq.), whether or not the certificate of incorporation has been amended, and nothing in this section shall operate to diminish or affect any limitation of liability or limitation on liability which is conferred upon nonprofit corporations, societies

or associations by the provisions of section 1 of P.L.1987, c.87 (C.2A:53A-7.1).

2. N.J.S.15A:3-4 is amended to read as follows:

Indemnification of trustees, officers and employees.

15A:3-4. Indemnification of trustees, officers and employees.

a. As used in this section:

(1) "Corporate agent" means any person who is or was a trustee, officer, employee or agent of the indemnifying corporation or of any constituent corporation absorbed by the indemnifying corporation in a consolidation or merger and any person who is or was a trustee, officer, employee or agent of any other enterprise, serving as such at the request of the indemnifying corporation, or of the constituent corporation, or the legal representative of the trustee, officer, employee or agent;

(2) "Other enterprise" means any domestic corporation, foreign corporation, or corporate business entity, other than the indemnifying corporation or any employee benefit plan or trust;

(3) "Expenses" means reasonable costs, disbursements and counsel fees;

(4) "Liabilities" means amounts paid or incurred in satisfaction of settlements, judgments, fines and penalties; and

(5) "Proceeding" means any pending, threatened or completed civil, criminal, administrative or arbitral action, suit or proceeding, and any appeal therein and any inquiry or investigation which could lead to the action, suit or proceeding.

b. Any corporation may indemnify a corporate agent against the agent's expenses and liabilities in connection with any proceeding involving the corporate agent because the agent is or was a corporate agent, other than a proceeding by or in the right of the corporation, if:

(1) the corporate agent acted in good faith and in a manner which the agent reasonably believed to be in or not opposed to the best interests of the corporation; and

(2) with respect to any criminal proceeding, the corporate agent had no reasonable cause to believe the conduct was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not

of itself create a presumption that the corporate agent did not meet the applicable standards of conduct set forth in paragraphs (1) and (2) of subsection b. of this section.

c. Any corporation may indemnify a corporate agent against the agent's expenses in connection with any proceeding by or in the right of the corporation to procure a judgment in its favor which involves the corporate agent by reason of being or having been the corporate agent, if the agent acted in good faith and in a manner which the agent reasonably believed to be in or not opposed to the best interests of the corporation. However, in the proceeding no indemnification shall be provided in respect of any claim, issue or matter as to which the corporate agent was liable to the corporation, unless and only to the extent that the Superior Court or the court in which the proceeding was brought shall determine upon application that despite the adjudication of liability, but in view of all circumstances of the case, the corporate agent is fairly and reasonably entitled to indemnity for those expenses as the Superior Court or the other court shall deem proper.

d. Any corporation shall indemnify a corporate agent against expenses to the extent that the corporate agent has been successful on the merits or otherwise in any proceeding referred to in subsections b. and c. of this section or in defense of any claim, issue or matter therein.

e. Any indemnification under subsection b. of this section and, unless ordered by a court, under subsection c. of this section, may be made by the corporation only as authorized in a specific case upon a determination that indemnification is proper in the circumstances because the corporate agent met the applicable standard of conduct set forth in subsection b. or c. Unless otherwise provided in the certificate of incorporation or bylaws, the determination shall be made:

(1) By the board of trustees or a committee thereof at a meeting at which is present a quorum determined without including trustees who were parties to or otherwise involved in the proceeding, acting by a majority vote of trustees who were not parties to or otherwise involved in the proceeding;

(2) If the quorum is not obtainable, or, even if obtainable and the quorum of the boards of trustees or committee by a majority vote of the disinterested trustees directs, by independent legal counsel, in a written opinion, the counsel to be designated by the board of trustees; or

(3) By the members, if the corporation has members and if the certificate of incorporation or bylaws or a resolution of the board of trustees directs.

f. Expenses incurred by a corporate agent in connection with the proceeding may be paid by the corporation in advance of the final disposition of the proceeding as authorized by the board of trustees upon receipt of an undertaking by or on behalf of the corporate agent to repay the amount unless it shall ultimately be determined that the agent is entitled to be indemnified as provided in this section.

g. (1) If a corporation upon application of a corporate agent has failed or refused to provide indemnification as required under subsection d. of this section or permitted under subsections b., c. and f. of this section, a corporate agent may apply to a court for an award of indemnification by the corporation, and the court:

(a) may award indemnification to the extent authorized under subsections b. and c. of this section and shall award indemnification to the extent required under subsection d. of this section, notwithstanding any contrary determination which may have been made under subsection e. of this section; and

(b) may allow reasonable expenses to the extent authorized by, and subject to the provisions of, subsection f. of this section, if the court shall find that the corporate agent has by the agent's pleadings or during the course of the proceeding raised genuine issues of fact or law.

(2) Application for indemnification may be made:

(a) in the civil action in which the expenses were or are to be incurred or other amounts were or are to be paid; or

(b) to the Superior Court in a separate proceeding.

(3) If the application is for indemnification arising out of a civil action, it shall set forth reasonable cause for the failure to make application for the relief in the action or proceeding in which the expenses were or are to be incurred or other amounts were or are to be paid. The application shall set forth the disposition of any previous application for indemnification and shall be made in the manner and form as may be required by the applicable rules of the court or, in the absence thereof, by direction of the court to which it is made. The application shall be upon notice to the corporation. The court may also direct that notice shall be given at the expense of the corporation to the members, if any, and all other persons as it may designate in the manner as it may require.

h. The indemnification and advancement of expenses provided by or granted pursuant to the other subsections of this section shall not exclude any other rights to which a corporate agent may be entitled under a certificate of incorporation, bylaw, agreement, or otherwise; provided that no indemnification shall be made to or on behalf of a corporate agent if a judgment or other final adjudication adverse to the corporate agent establishes that his acts or omissions (1) were in breach of his duty of loyalty to the corporation or its members, (2) were not in good faith or involved a knowing violation of law, or (3) resulted in receipt by the corporate agent of an improper personal benefit.

i. Any corporation shall have the power to purchase and maintain insurance on behalf of any corporate agent against any expense incurred in any proceeding and any liabilities asserted by reason of the agent's being or having been a corporate agent, whether or not the corporation would have the power to indemnify the agent against those expenses and liabilities under the provisions of this section.

j. The powers granted by this section may be exercised by the corporation notwithstanding the absence of any provision in its certificate of incorporation or bylaws authorizing the exercise of these powers.

k. Except as required by subsection d. of this section, no indemnification shall be made or expenses advanced by a corporation under this section, and none shall be ordered by a court, if that action would be inconsistent with a provision of the certificate of incorporation, a bylaw, a resolution of the board or of the members, an agreement or other proper corporate action in effect at the time of the accrual of the alleged cause of action asserted in the proceeding, which prohibits, limits or otherwise conditions the exercise of indemnification powers by the corporation or the rights of indemnification to which a corporate agent may be entitled.

l. This section does not limit a corporation's power to pay or reimburse expenses incurred by a corporate agent in connection with the corporate agent's appearance as a witness in a proceeding at a time when the corporate agent has not been made a party to the proceeding.

3. N.J.S.15A:6-14 is amended to read as follows:

Standard of care; liability of trustees; reliance on corporate records.

15A:6-14. Standard of care; liability of trustees; reliance on corporate records.

Trustees and members of any committee designated by the board shall discharge their duties in good faith and with that degree of diligence, care and skill which ordinary, prudent persons would exercise under similar circumstances in like positions. In discharging their duties, trustees and members of any committee designated by the board shall not be liable if, acting in good faith, they rely on the opinion of counsel for the corporation or upon written reports setting forth financial data concerning the corporation and prepared by an independent public accountant or certified public accountant or firm of accountants or upon financial statements, books of account or reports of the corporation represented to them to be correct by the president, the officer of the corporation having charge of its books of account, or the person presiding at a meeting of the board. A trustee shall not be personally liable to the corporation or its members for damages for breach of duty as a trustee if and to the extent that such liability has been eliminated or limited by a provision in the certificate of incorporation authorized by subsection c. of N.J.S.15A:2-8, except that, in the case of a trustee of a corporation which is established for the purposes provided for in P.L.1959, c.90 (C.2A:53A-7 et seq.) who serves without compensation, other than reimbursement for actual expenses, the trustee shall not be personally liable to the corporation or its members for damages for breach of duty as a trustee, whether or not such liability has been eliminated or limited by a provision in the certificate of incorporation authorized by subsection c. of N.J.S.15A:2-8.

4. This act shall take effect immediately.

Approved January 4, 1990.

CHAPTER 261

AN ACT to provide employees with newly-born or adopted children or seriously ill family members temporary leave from their employment, and guaranteeing job security and certain benefits during this leave, supplementing P.L.1945, c.169 (C.10:5-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.34:11B-1 Short title.

1. This act shall be known and may be cited as the "Family Leave Act."

C.34:11B-2 Findings, declarations.

2. The Legislature finds and declares that the number of families in the State in which both parents or a single parent is employed outside of the home has increased dramatically and continues to increase and that due to lack of employment policies to accommodate working parents, many individuals are forced to choose between job security and parenting or providing care for ill family members. The Legislature further finds that it is necessary to promote the economic security of families by guaranteeing jobs to wage earners who choose to take a period of leave upon the birth or placement for adoption of a child or serious health condition of a family member. The Legislature, therefore, declares that it is the policy of the State to protect and promote the stability and economic security of family units. The Legislature further declares that employees should be entitled to take a period of leave upon the birth or placement for adoption of a child or serious health condition of a family member without risk of termination of employment or retaliation by employers and without loss of certain benefits.

C.34:11B-3 Definitions.

3. As used in this act:

a. "Child" means a biological, adopted, or foster child, stepchild, legal ward, or child of a parent who is

(1) under 18 years of age; or

(2) 18 years of age or older but incapable of self-care because of a mental or physical impairment.

b. "Director" means the Director of the Division on Civil Rights.

c. "Division" means the Division on Civil Rights in the Department of Law and Public Safety.

d. "Employ" means to suffer or permit to work for compensation, and includes ongoing, contractual relationships in which the employer retains substantial direct or indirect control over the employee's employment opportunities or terms and conditions of employment.

e. "Employee" means a person who is employed for at least 12 months by an employer, with respect to whom benefits are sought under this act, for not less than 1,000 base hours during the immediately preceding 12-month period.

f. "Employer" means a person or corporation, partnership, individual proprietorship, joint venture, firm or company or other similar legal entity which engages the services of an employee and which:

(1) With respect to the period of time from the effective date of this act until the 365th day following the effective date of this act, employs 100 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year;

(2) With respect to the period of time from the 366th day following the effective date of this act until the 1,095th day following the effective date of this act, employs 75 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year; and

(3) With respect to any time after the 1,095th day following the effective date of this act, employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year. "Employer" includes the State, any political subdivision thereof, and all public offices, agencies, boards or bodies.

g. "Employment benefits" means all benefits and policies provided or made available to employees by an employer, and includes group life insurance, health insurance, disability insurance, sick leave, annual leave, pensions, or other similar benefits.

h. "Parent" means a person who is the biological parent, adoptive parent, foster parent, step-parent, parent-in-law or legal guardian, having a "parent-child relationship" with a child as defined by law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child.

i. "Family leave" means leave from employment so that the employee may provide care made necessary by reason of:

- (1) the birth of a child of the employee;
- (2) the placement of a child with the employee in connection with adoption of such child by the employee; or
- (3) the serious health condition of a family member of the employee.

j. "Family member" means a child, parent, or spouse.

k. "Reduced leave schedule" means leave scheduled for fewer than an employee's usual number of hours worked per workweek but not for fewer than an employee's usual number of hours worked per workday, unless agreed to by the employee and the employer.

l. "Serious health condition" means an illness, injury, impairment, or physical or mental condition which requires:

- (1) inpatient care in a hospital, hospice, or residential medical care facility; or
- (2) continuing medical treatment or continuing supervision by a health care provider.

C.34:11B-4 Duration, frequency of family leave; payment by employer; certification; denial of leave.

4. An employee of an employer in this State subject to the provisions of this act shall be entitled to a family leave of 12 weeks in any 24-month period upon advance notice to the employer, unless the employer denies family leave to the employee pursuant to subsection h. of this section.

a. In the case of a family member who has a serious health condition, the leave may be taken intermittently when medically necessary, if:

- (1) The total time within which the leave is taken does not exceed a 12-month period for each serious health condition episode;
- (2) The employee provides the employer with prior notice of the leave in a manner which is reasonable and practicable; and
- (3) The employee makes a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the employer.

b. In the case of the birth or adoption of a healthy child, the leave may be taken intermittently if agreed to by the employer and the employee.

c. Leave taken because of the birth or placement for adoption of a child may commence at any time within a year after the date of the birth or placement for adoption.

d. Family leave required by this act may be paid, unpaid, or a combination of paid and unpaid leave. If an employer provides paid family leave for fewer than 12 workweeks, the additional weeks of leave added to attain the 12-workweek total required by this act may be unpaid.

e. An employer may require that any period of family leave be supported by certification issued by a duly licensed health care provider or any other health care provider determined by the director to be capable of providing adequate certification.

(1) Where the certification is for the serious health condition of a family member of the employee, the certification shall be sufficient if it states: (a) the date on which the serious health condition commenced; (b) the probable duration of the condition; and (c) the medical facts within the provider's knowledge regarding the condition;

(2) Where the certification is for the birth or placement of the child, the certification need only state the date of birth or date of placement, whichever is appropriate.

In any case in which the employer has reason to doubt the validity of the certification provided pursuant to paragraph (1) of this subsection, the employer may require, at its own expense, that an employee obtain an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the employer. If the second opinion differs from the certification provided pursuant to paragraph (1) of this subsection, the employer may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the serious health condition. The opinion of the third health care provider shall be considered to be final and shall be binding on the employer and the employee.

f. In any case in which the necessity for leave under this act is foreseeable, based upon an expected birth or placement of the child for adoption, the employee shall provide the employer with prior notice of the expected birth or placement of the child for adoption in a manner which is reasonable and practicable.

g. No employee shall, during any period of leave taken pursuant to this section, perform services on a full-time basis for any person for whom the employee did not provide those services immediately prior to commencement of the leave.

h. An employer may deny family leave to the employee if:

(1) The employee is a salaried employee who is among the highest paid 5% of the employer's employees or the seven highest paid employees of the employer, whichever is greater;

(2) The denial is necessary to prevent substantial and grievous economic injury to the employer's operations; and

(3) The employer notifies the employee of its intent to deny the leave at the time the employer determines that the denial is necessary.

i. In any case in which the leave has already commenced at the time of the notification pursuant to paragraph (3) of subsection h. of this section, the employee shall return to work within 10 working days of the date of notification.

C.34:11B-5 Reduced leave schedule.

5. An employee shall be entitled, at the option of the employee, to take this leave on a reduced leave schedule, except that:

a. The employee shall not be entitled to a reduced leave schedule for a period exceeding 24 consecutive weeks; and

b. The employee shall not be entitled to take the leave on a reduced leave schedule without an agreement between the employer and employee, if the leave is taken upon the birth or adoption of a healthy child.

The employee shall make a reasonable effort to schedule reduced leave so as not to disrupt unduly the operations of the employer and the employee shall provide the employer with prior notice of the care, medical treatment, or continuing supervision by a health care provider necessary due to a serious health condition of a family member, in a manner which is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave to which an employee is entitled.

C.34:11B-6 Employees to be informed of their rights and obligations.

6. An employer shall display conspicuous notice of its employees' rights and obligations pursuant to the provisions of this act, and use other appropriate means to keep its employees so informed.

C.34:11B-7 Return from leave; conditions.

7. An employee who exercises the right to family leave under section 4 of this act shall, upon the expiration of the leave, be entitled to be restored by the employer to the position held by the employee when the leave commenced or to an equivalent position of like seniority, status, employment benefits, pay, and other terms and conditions of employment. If during a leave provided by this act, the employer experiences a reduction in force or layoff and the employee would have lost his position had the employee not been on leave, as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system including a system under a collective bargaining agreement where applicable, the employee shall not be entitled to reinstatement to the former or an equivalent position. The employee shall retain all rights under any applicable layoff and recall system, including a system under a collective bargaining agreement, as if the employee had not taken the leave.

C.34:11B-8 Continuation of health benefits during leave.

8. a. During a leave taken under section 4 of this act, the employer shall maintain coverage under any group health insurance policy, group subscriber contract or health care plan at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave to the date the employee returns to work pursuant to section 7 of this act or the date on which the employee's coverage would have expired had the employee not been on leave, whichever is sooner.

b. During a leave taken under section 4 of this act, the employer shall provide any employment benefits that are not required to be maintained pursuant to subsection a. of this section pursuant to the employer's policy with regard to employment benefits for employees on temporary leave from employment.

C.34:11B-9 Withholding of rights, benefits; discharge of employee, unlawful.

9. a. It shall be unlawful for any employer to interfere with, restrain or deny the exercise of, or the attempt to exercise, the rights provided under this act or to withhold the benefits provided for under this act.

b. It shall be unlawful for an employer to discharge or discriminate against an individual for opposing a practice made unlawful by this act.

c. It shall be unlawful for a person to discharge or discriminate against an individual because the individual:

- (1) has filed a charge, or has instituted or caused to be instituted a proceeding, under or related to this act;
- (2) has given or is about to give information in connection with an inquiry or proceeding relating to a right provided under this act; or
- (3) has testified or is about to testify in an inquiry or proceeding relating to a right provided under this act.

C.34:11B-10 Penalty for violation by employer.

10. The penalty for an employer violating this act is, in addition to other relief or affirmative action provided by law, not more than \$2,000.00 for the first offense and not more than \$5,000.00 for the second and each subsequent offense, to be recovered in a summary civil action in the name of the Attorney General and collected pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

C.34:11B-11 Suits, complaints, permitted; punitive damages.

11. Any person may initiate suit in Superior Court or file a complaint with the division on either an individual or class basis. In addition to the remedies provided in section 16 of P.L.1945, c.169 (C.10:5-17), the aggrieved party may be awarded punitive damages in an amount not greater than \$10,000.00 except that in the case of a class action or a director's complaint the total amount of punitive damages shall not exceed \$500,000.00 or 1% of the net worth of the defendant, whichever is less. In determining the amount of punitive damages, the court or director shall consider, among other relevant factors, the amount of compensatory damages awarded, the amount of civil penalty to be paid by the employer, the frequency and persistence of the violation of this act by the employer, the resources of the employer, the number of persons adversely affected by the violation, and the extent to which the employer's failure to comply with this act was intentional.

C.34:11B-12 Award of attorneys' fees.

12. In an action or complaint brought under this act, the prevailing party may be awarded reasonable attorneys' fees as part of the cost, provided however, that no attorneys' fees shall be awarded to the employer unless there is a determination that the action was brought in bad faith.

C.34:11B-13 Family leave in addition to temporary disability benefits.

13. Family leave granted under this act is in addition to, and shall not abridge nor conflict with, any rights pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

C.34:11B-14 Benefits provided by collective bargaining agreement; reduction prohibited.

14. No provision of this act shall be deemed to justify an employer in reducing employment benefits provided by the employer or required by a collective bargaining agreement which are in excess of those required by this act. Nor shall any provision of this act, or any regulations promulgated to implement or enforce this act, be construed to prohibit the negotiation and provision through collective bargaining agreements of leave policies or benefit programs which provide benefits in excess of those required by this act. This provision shall apply irrespective of the date that a collective bargaining agreement takes effect.

C.34:11B-15 Reports on impact, benefits of act.

15. a. The director shall provide reports to the Governor, the President of the Senate and the Speaker of the General Assembly, each of which reports shall describe the actual or potential costs, impact or benefits of this act on businesses which have:

- (1) Not less than 100 employees;
- (2) Less than 100 employees but not less than 75 employees; and
- (3) Less than 75 employees but not less than 50 employees; and
- (4) Less than 50 employees.

Each report shall also indicate the total number of employees in each of the categories indicated above, the total number of employees in each category to which the provisions of this act apply and the total number of employees from each category who utilize the benefits under this act.

b. The first report shall be provided not later than the end of the second year following the effective date of this act. The second report shall be provided not later than the end of the fourth year following the effective date of this act. Thereafter, a report shall be provided on an annual basis.

C.34:11B-16 Rules, regulations.

16. The director shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), deemed necessary for the implementation and enforcement of this act.

17. This act shall take effect on the 120th day after enactment.*

Approved January 4, 1990.

*Appropriation deleted by line-item veto of the Governor. See statement following.

Statement to Chapter 261
(Senate Bill No. 2035 (Second Reprint))

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I am attaching to Senate Bill No. 2035 (Second Reprint) at the time of signing it my statement of the items, or parts thereof, to which I object, so that each item, or part thereof, so objected to shall not take effect.

This bill provides that employees in the State with newly born or adopted children or seriously ill family members shall be entitled to a family leave of 12 weeks in any 24-month period, with job security and employment benefits guaranteed during the leave. After a four-year phase-in period, the protections of this legislation will apply to all businesses of more than 50 employees and will thus cover nearly three-quarters of the workforce in the State. In addition, the bill appropriates \$60,000 to the Division on Civil Rights to effectuate its purposes.

While I strongly endorse this bill and its objective of establishing a leave policy that permits employees to meet the special needs of their families, I cannot support the \$60,000 appropriation to the Division on Civil Rights. In this period of fiscal constraint, agencies throughout State government will be required to fulfill their statutory mandates within existing appropriations. Although the State is unable to commit additional fiscal resources to the Division to administer this new program, I am sure that the Division will be able to implement this worthwhile legislation with its current staff and within its current budget.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

Page 1, Title, Line 5: Delete “, and making an appropriation”

Page 9, Section 17, Lines 35-38: Delete in its entirety

Page 9, Section 18, Line 39: Delete “18.” insert
“17.”

Respectfully,

Thomas H. Kean
Governor

CHAPTER 262

AN ACT to permit qualified corporations to act as fiscal agents and transfer agents, amending and supplementing P.L.1948, c.67.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 213 of P.L.1948, c.67 (C.17:9A-213) is amended to read as follows:

C.17:9A-213 Limitations on exercise of powers.

213. Limitations on exercise of powers.

Except as otherwise provided by law, only a banking institution shall exercise within this State any of the powers enumerated in paragraph (4) of section 24 (C.17:9A-24), paragraphs (4), (5) and (13) of section 25 (C.17:9A-25), and paragraphs (1) and (5) of section 26 (C.17:9A-26), and except as otherwise provided in this section, no corporation other than a qualified bank shall exercise within this State any of the powers specified in paragraphs (3), (4), (5), (6), (7), (8) and (9) of section 28 (C.17:9A-28), provided that no corporation organized prior to March 24, 1899, authorized to exercise all or any of the powers specified in paragraph (13) of section 25 (C.17:9A-25) or in paragraph (3) of section 28 (C.17:9A-28), shall be prohibited from exercising such powers, and further provided that no qualified corporation, as hereinafter defined, shall be prohibited from exercising all or any of the powers specified in paragraph (3) of section 28 (C.17:9A-28), or in paragraph (13) of section 25 (C.17:9A-25). A qualified corporation shall mean a domestic corporation or a foreign corporation authorized to transact business in this State and registered with the Department of Banking which (a) has such capital, surplus and undivided profits as may be fixed by the Commissioner of Banking commensurate with the nature and volume of its business; (b) has adequate vault or other safe keeping facilities for the safeguarding of stocks and other securities received, processed or otherwise held for the account of customers; and (c) is adequately insured, as may be provided by regulation, to protect its customers and the holders or transferees of securities issued by its customers.

A qualified corporation shall be subject to any regulations which may be adopted by the Commissioner of Banking and subject to examination by the Department of Banking, the cost of which shall be paid by the qualified corporation, to ensure compliance with any such regulations. The Commissioner of Banking may require such qualified corporations to file such reports as from time to time he

deems necessary to enable him to determine compliance with any regulations which may be issued by him and to pay fees set by regulation for filing such reports and for registering with the Department of Banking.

C.17:9A-213.2 Violations of law, regulation by qualified corporation; penalty.

2. If the Commissioner of Banking finds that a qualified corporation is conducting its business in violation of any law or regulation of this State or in a manner hazardous to the citizens of this State or any other state, he shall order the qualified corporation to cease its ultra vires or hazardous practices, as the case may be. A qualified corporation that continues to conduct business in violation of any law or regulation of this State or in a manner hazardous to the citizens of this State or any other state, shall be liable to a penalty of \$1,000 for each day the default continues after the time specified in the order.

3. This act shall take effect immediately.

Approved January 4, 1990.

CHAPTER 263

AN ACT establishing safety standards for retail gasoline stations, including a prohibition of the self-service of gasoline and other inflammable liquids by customers, repealing P.L.1949, c.274 (C.43:3A-1 et seq.) and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.34:3A-4 Findings, declarations.

1. The Legislature finds and declares that:

a. Because of the fire hazards directly associated with dispensing fuel, it is in the public interest that gasoline station operators have the control needed over that activity to ensure compliance with appropriate safety procedures, including turning off vehicle engines and refraining from smoking while fuel is dispensed;

b. At self-service gasoline stations in other states, cashiers are often unable to maintain a clear view of the activities of customers dispensing gasoline, or to give their undivided attention to observing customers; therefore, when customers, rather than attendants, are

permitted to dispense fuel, it is far more difficult to enforce compliance with safety procedures;

c. The State needs stronger measures to enforce both compliance by customers with the ban on self-service and compliance by attendants with safety procedures;

d. The higher general liability insurance premium rates charged to self-service stations reflect the fact that customers who leave their vehicles to dispense gasoline or other inflammable liquids face significant inconveniences and dangers, including the risks of crime and fall-related personal injury, which are a special burden to drivers with physical infirmities, such as the handicapped and some senior citizens;

e. Exposure to toxic gasoline fumes represents a health hazard when customers dispense their own gasoline, particularly in the case of pregnant women;

f. The significantly higher prices usually charged for full-service gasoline in states where self-service is permitted results in discrimination against low income individuals, who are under greater economic pressure to undergo the inconvenience and hazards of dispensing their own gasoline;

g. The increasing use of self-service has contributed to the diminished availability of repair facilities and maintenance services at gasoline stations;

h. Even in filling stations which offer both self-service and full-service gasoline, customers are less likely, because of the much higher price usually charged for full service, to have attendants make needed maintenance checks, thus causing significant neglect of maintenance and danger both to the customers and to other motorists, as well as the unneeded costly repairs which often result from deferred maintenance;

i. The prohibition of customer self-service does not constitute a restraint of trade in derogation of the general public interest because the Legislature finds no conclusive evidence that self-service gasoline provides a sustained reduction in gasoline prices charged to customers; and

j. A prohibition of self-service gasoline will therefore promote the common welfare by providing increased safety and convenience without causing economic harm to the public in general.

C.34:3A-5 Definitions.

2. As used in this act:

“Attendant” means a retail dealer or employee of a retail dealer.

“Commissioner” means the Commissioner of Labor.

“Fuel” means any liquid commonly or commercially known or sold as gasoline, or other inflammable liquid, which is sold for use as fuel in the internal combustion engines of motor vehicles.

“Gasoline station” or “station” means a place of business located in the State and used for the retail sale and dispensing of fuel into the tanks of motor vehicles.

“Retail dealer” means a person operating a gasoline station.

C.34:3A-6 Dispensing of fuel; regulations.

3. It shall be unlawful for any attendant to:

a. Dispense fuel into the tank of a motor vehicle while the vehicle’s engine is in operation;

b. Dispense fuel into any portable container not in compliance with regulations adopted pursuant to section 8 of this act;

c. Dispense fuel while smoking; or

d. Permit any person who is not an attendant to dispense fuel into the tank of a motor vehicle or any container.

C.34:3A-7 Training, supervision of attendants.

4. No person shall dispense fuel at a gasoline station, unless the person is an attendant who has received instructions regarding the dispensing of fuel, had practical experience dispensing fuel under the direct supervision of an experienced operator for a period of not less than one full working day, and, upon examination at the end of that period, demonstrated his understanding of those instructions. The instructions shall include a full explanation of the prohibitions of section 3 of this act and any emergency procedures established pursuant to section 8 of this act.

C.34:3A-8 Certification of attendants.

5. There shall be available at each station for inspection by the commissioner a certificate for each person who dispenses fuel at the station certifying that the person meets the requirements of section 4 of this act. The certificate shall be signed by the person and the retail dealer who operates the station.

C.34:3A-9 Pump shutoff switch; required.

6. Each gasoline station shall be equipped, at a location remote from the dispensing pumps, with a clearly identified and easily accessible switch or circuit breaker to shut off the power to all dispensing pumps in the event of an emergency or of a customer or other unauthorized person operating or attempting to operate the pump.

C.34:3A-10 Penalties for violations; Retail Gasoline Dispensing Safety Account; established.

7. A violator of any provision of this act shall be liable for a penalty of not less than \$50.00 and not more than \$250.00 for a first offense and not more than \$500.00 for each subsequent offense. Each day that a gasoline station operates in violation of the provisions of section 5 or 6 of this act is a separate violation by the retail dealer who operates the station. The penalties shall be sued for and recovered by the commissioner, in summary proceedings pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq., in the county or municipality where the offense occurred.

There is established a nonlapsing dedicated account to be known as the Retail Gasoline Dispensing Safety Account. Penalties collected pursuant to this section shall be credited to the account and appropriated to fund expenses of effectuating the purposes of this act. If, at the close of a fiscal year, moneys are available beyond the funds necessary to meet those expenses, the commissioner shall determine an appropriate amount to be returned to the General Fund for general State purposes.

C.34:3A-11 Rules, regulations.

8. The commissioner shall, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations as are necessary to effectuate the purposes of this act, including regulations establishing emergency procedures and standards concerning pump shutoff switches and other safety equipment to be used at gasoline stations, and standards for portable containers for fuel dispensed at gasoline stations, which standards shall be consistent with other State and federal regulations.

Repealer.

9. P.L.1949, c.274 (C.34:3A-1 et seq.) is repealed.

10. This act shall take effect immediately, except that sections 2 through 7 and section 9 of this act shall remain inoperative until the 180th day following enactment.*

Approved January 4, 1990.

*Appropriation deleted by line-item veto of the Governor. See statement following.

Statement to Chapter 263

(Senate Committee Substitute for Senate Bill Nos. 2881 and 2906)

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I am appending to Senate Committee Substitute for Senate Bill Nos. 2881 and 2906 at the time of signing it my statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

The purpose of this bill is to continue the current 40-year old ban on self-service pumping of gasoline and to strengthen safety standards imposed on retail gasoline stations. The bill prohibits the dispensing of gasoline by anyone other than station attendants who have received specific instructions regarding the procedures for safely dispensing fuel and have had practical experience dispensing fuel under the direct supervision of an experienced operator for one full working day. To ensure that all attendants receive the requisite instruction and practical experience in fuel dispensing, the bill requires that a certificate be signed by both the retail dealer and the employee attesting to compliance with these requirements and that these certificates be made available for inspection by the Department of Labor.

The bill also specifically prohibits the dispensing of fuel while the vehicle's engine is running, while the attendant is smoking or into unauthorized containers. The bill further requires that each gasoline station be equipped with a clearly marked remote cutoff switch for the power to the dispensing pumps. In the event of an emergency or an unauthorized person operating the pumps, the power source can rapidly be terminated. The penalties for violating any provision of this bill are established at not less than \$50 and not more than \$250 for a first offense and not more than \$500 for each subsequent offense. The bill also appropriates \$95,000 to the Department of Labor to administer and enforce this legislation.

The Legislature has declared in this bill that the self-service pumping of fuel is contrary to the health and safety interests of the public. I agree with the Legislature that full service at retail gasoline stations should be available at all times and to every motorist in the State. However, I see no need to appropriate \$95,000 from the General Fund to the Department of Labor to effectuate the purposes of this act. The Department is currently enforcing the existing self-service

prohibition, and I find no compelling reason to commit additional enforcement resources.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

Page 4, Section 10, Lines 14-16: Delete in its entirety

Page 4, Section 10, Line 17: Delete "11." insert "10."

Respectfully,

Thomas H. Kean
Governor

CHAPTER 264

AN ACT concerning the maintenance of deposits required to be held by the Commissioner of Insurance and revising parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.17:20-1 is amended to read as follows:

Definitions.

17:20-1. a. As used in this chapter:

(1) "Bank" means a State or federally chartered bank, savings bank, or savings and loan association which has trust powers and which has its principal office in New Jersey.

(2) "Custodian" means a bank which performs fiduciary functions in the maintenance of deposits.

(3) "Deposit" means those deposits of securities required to be made by insurance companies prior to their authorization to transact business within any jurisdiction.

(4) "Federal Reserve book-entry system" means the computerized system sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and the agencies and instrumentalities, respectively, in Federal Reserve Banks through banks which are members of the

Federal Reserve System or which otherwise have access to this computerized system.

(5) "Policyholders" means those persons including subscribers, certificate holders, and others who are named in or covered by a contract of insurance.

(6) "Securities" means and shall only include:

(a) Bills, bonds and notes issued by the United States Treasury;

(b) Debt obligations of the State of New Jersey, its authorities, counties and municipalities; and

(c) Certificates of deposit of a State or federally chartered bank, savings bank, or savings and loan association with its principal office in New Jersey.

b. The commissioner shall appoint one or more custodians which shall be selected on the basis of bids submitted by banks to perform such fiduciary functions as the commissioner deems necessary in the maintenance of deposits.

c. Every company organized under subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.), other than a mutual company organized to make insurance solely against loss or damage to property belonging to the insured member, shall deposit with the custodian on behalf of the commissioner, securities with a market value of at least \$100,000.00 to be held in physical form or purchased for its account in the Federal Reserve book-entry system. The deposits shall be held for the benefit and security of all the policyholders of the company depositing them. The records of the custodian, through which an insurance company holds securities in the Federal Reserve book-entry system or in physical form, shall at all times show that these securities are held for an insurance company and for which accounts thereof.

d. The Commissioner of Insurance may, from time to time, after the company has commenced business, require it to make further deposits of securities up to the sum of \$250,000, as the commissioner may deem necessary to protect the policyholders of the depositing company.

2. R.S.17:20-2 is amended to read as follows:

Deposits; interest on; substitution of.

17:20-2. The commissioner shall hold the securities deposited as aforesaid, for the benefit and security of all the policyholders of the

company depositing them, but shall, so long as the company continues solvent and complies with all the requisites of the laws applicable to it, permit the company to collect the interest or dividends on the securities so deposited, and, from time to time, with his assent, to withdraw any of the securities, on depositing with him other eligible securities, the market value of which shall not cause the value of the total deposit to fall below the amount required by the commissioner.

3. R.S.17:20-3 is amended to read as follows:

Delivery of securities on dissolution, liquidation, reorganization or merger; action to obtain delivery; claims of policyholders.

17:20-3. Whenever any insurance company of this State shall voluntarily dissolve, or a receiver or trustee thereof shall be appointed by the Superior Court in any action brought in such court to effect the liquidation or reorganization of such company; or if, pursuant to the provisions of any statute of this State, any statutory officer shall take possession of the business and affairs of such company; or if such company shall have heretofore or shall hereafter become legally merged into or consolidated with another such company, the commissioner shall thereupon deliver to such receiver or trustee, or to the directors or trustees on dissolution, or to such statutory officer, or to the company resulting from such merger or consolidation, the securities deposited with him.

Before the commissioner shall make such delivery, such receiver or trustee, or such directors or trustees on dissolution, or such statutory officer, or such company resulting from such merger or consolidation, shall institute an action in the Superior Court to obtain delivery by the commissioner of such securities to the plaintiff. The court may proceed in the action in a summary manner or otherwise, and process therein may be served upon all persons, other than the commissioner by publishing the same or a notice thereof once in a newspaper published in the county where the company has its principal office. The court may enter judgment directing the commissioner to deliver such securities to the plaintiff. Upon such delivery, the commissioner shall be relieved of all further responsibility or obligation in regard to the securities so deposited, except when such securities are delivered by such commissioner as commissioner to himself in his capacity as the officer designated by statute to take possession of the business and affairs of any such company. Such deposited securities shall not be delivered to the directors or trustees on dissolution until all proceedings in such voluntary dissolution shall have first been approved by the commissioner.

Nothing herein contained shall be construed as in anywise affecting the rights, in such securities, of the policyholders of such company for whose benefit and security such deposit was made, as provided in R.S.17:20-2. Such securities or the proceeds thereof, shall be administered, upon such delivery, as a trust fund for the benefit of such policyholders, and shall not be mingled with other assets of such company, until distribution thereof is made as hereinafter provided.

The Superior Court, in any action brought therein for the delivery of such securities as herein provided, shall have jurisdiction to limit the time within which policyholders shall present and make proof of their respective claims against such company, and may bar all such policyholders from any claim in such securities for failing so to do within the time limited. The court may also prescribe what notice, by publication or otherwise, shall be given to such policyholders of such limitation of time. Nothing contained in subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.) shall be construed as conferring upon the Superior Court general jurisdiction over the business and affairs of such company by reason only of any application made to it pursuant to the provisions of this section. Such claims shall be presented to such receiver or trustee, or to such directors or trustees in dissolution, or to such statutory officer, or to such company resulting from such merger or consolidation, in writing and under oath and shall be passed upon by the same, subject to a summary review by the court as may be prescribed by order of the court. Upon the expiration of the time limited for filing claims, and upon the determination as herein provided, of claims disallowed, such securities or the proceeds thereof shall be distributed pro rata to such policyholders on account of such claims, and the balance thereof shall thereupon be discharged from any trust for the benefit of such policyholders. If the proceeds of such distribution are insufficient to pay such claims in full, nothing herein contained shall be construed as preventing such policyholders from asserting any lawful claim against other assets of such company for the amount of such deficiency.

C.17:20-3.1 Fees for services of custodian required pursuant to R.S.17:20-1 et seq.

4. The Commissioner of Insurance shall establish, by regulation, the fees to be charged insurance companies for the services of the custodian pursuant to the requirements of R.S.17:20-1 through R.S.17:20-3.

5. N.J.S.17B:18-37 is amended to read as follows:

Definitions; deposit prerequisite to authorization.

17B:18-37. a. As used in this section and in N.J.S.17B:18-38 and N.J.S.17B:18-39:

(1) "Bank" means a State or federally chartered bank, savings bank, or savings and loan association which has trust powers and which has its principal office in New Jersey.

(2) "Custodian" means a bank which performs fiduciary functions in the maintenance of deposits.

(3) "Deposit" means those deposits of securities required to be made by insurance companies prior to their authorization to transact business within any jurisdiction.

(4) "Federal Reserve book-entry system" means the computerized system sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and the agencies and instrumentalities, respectively, in Federal Reserve Banks through banks which are members of the Federal Reserve System or which otherwise have access to this computerized system.

(5) "Policyholders" means those persons including subscribers, certificate holders, and others who are named in or covered by a contract of insurance.

(6) "Securities" means and shall only include:

- (a) Bills, bonds and notes issued by the United States Treasury;
- (b) Debt obligations of the State of New Jersey, its authorities, counties and municipalities; and
- (c) Certificates of deposit of a State or federally chartered bank, savings bank, or savings and loan association with its principal office in New Jersey.

b. The commissioner shall appoint one or more custodians which shall be selected on the basis of bids submitted by banks to perform such fiduciary functions as the commissioner deems necessary in the maintenance of deposits.

c. No domestic insurer shall be issued a certificate of authority until it has deposited with the custodian on behalf of the commissioner, securities having a market value of at least \$100,000.00 to be held in physical form or purchased for its account in the Federal

Reserve book-entry system. The deposits are to be held for the benefit and security of all of the policyholders of the company depositing them. The records of the custodian, through which an insurance company holds securities in the Federal Reserve book-entry system or in physical form, shall at all times show that these securities are held for an insurance company and for which accounts thereof.

d. The Commissioner of Insurance may, from time to time after the company has commenced business, require it to make further deposits of securities, up to the sum of \$250,000.00, as the commissioner may deem necessary to protect the policyholders of the depositing company.

6. N.J.S.17B:18-38 is amended to read as follows:

Deposits; interest on; substitution of.

17B:18-38. The commissioner shall hold the securities deposited pursuant to N.J.S.17B:18-37 for the benefit and security of all the policyholders of the insurer depositing them, but shall, so long as it continues solvent and complies with all the requisites of the laws applicable to it, permit the insurer to collect the interest or dividends on the securities so deposited, and, from time to time to withdraw any of the securities, on depositing with him other eligible securities to the extent required to maintain the market value of the total deposit at the amount required by the commissioner.

7. N.J.S.17B:18-39 is amended to read as follows:

Deposits to do business in other jurisdictions.

17B:18-39. The custodian, on behalf of the commissioner, may receive from any domestic insurer a deposit of securities necessary to enable it to transact business in any other state, territory, dependency or Federal District of the United States or in any foreign country under the laws thereof. Such securities shall be held by the custodian, on behalf of the commissioner, as long as the insurer desires to transact business in the state, territory, dependency or Federal District of the United States or foreign country requiring the deposit but the insurer may draw the dividends or receive the interest on the securities. When the insurer desires to discontinue its business therein and the deposit is no longer required by the laws thereof, the commissioner shall return the securities to the insurer depositing them. Before the commissioner shall return the securities deposited with him as aforesaid, the company shall institute an action and obtain a judgment therefore in the Superior Court substantially similar to that provided in R.S.17:20-3.

C.17B:18-39.1 Fees for services of custodian required pursuant to N.J.S.17B:18-37 et seq.

8. The Commissioner of Insurance shall establish, by regulation, the fees to be charged insurance companies for the services of the custodian pursuant to the requirements of N.J.S.17B:18-37 through N.J.S.17B:18-39.

9. Section 3 of P.L.1938, c.322 (C.17:16A-3) is amended to read as follows:

C.17:16A-3 Authorization of domestic companies, individuals and partnerships.

3. Authorization of domestic companies, individuals and partnerships. An investment company, other than a foreign corporation, desiring to secure a certificate of authority shall make application to the commissioner who may issue such certificate of authority to transact business to any such company when:

a. The investment company, if a corporation of this State, has filed in the department a certified copy of its charter or certificate of incorporation and a statement, in such form as the commissioner shall prescribe, attested by its president or vice-president and secretary or treasurer under its corporate seal, showing the financial condition of the corporation; or if an individual or partnership, has filed in the department such evidence as may be satisfactory to the commissioner that the individual or members of the partnership are citizens of the United States and residents of this State and a statement, in such form as the commissioner shall prescribe, attested by the individual or by the members of the partnership, showing the financial condition of the individual or partnership.

b. The commissioner shall be satisfied, by such examination and evidence as he sees fit to make and require; if a corporation, that the whole amount of the capital set forth in the certificate of incorporation and the required minimum surplus of the company has been actually paid in cash and is possessed by the company in money or in such stocks, bonds, bonds and mortgages, or other securities as are authorized for investment by this chapter, or, if an individual or partnership, that the minimum amount of unencumbered assets over its liabilities required by this chapter are held in such stocks, bonds, bonds and mortgages, or other securities authorized by this chapter for the investment of the funds of investment companies incorporated under the laws of this State. No investment company hereafter incorporated under the laws of this State shall be entitled to commence business unless it has a capital stock of at least one hundred thousand dollars (\$100,000.00) and in addition thereto a

surplus actually paid in cash equal to one-half the minimum capital stock required by this chapter. Any company heretofore incorporated under the laws of this State and engaged in the investment business as defined in this act, within this State, shall be entitled to make application to the commissioner for a certificate of authority, authorized by this act; provided, such company shall at all times have capital stock and surplus actually paid in cash amounting to twenty per centum (20%) of its liabilities, such liabilities to be determined by the Commissioner of Insurance of this State; and provided, further, that the said capital and surplus shall be at a minimum amount of at least thirty thousand dollars (\$30,000.00). No individual or partnership shall be entitled to commence business unless the amount of its unencumbered assets, invested as herein provided, over its liabilities shall not be less than one hundred fifty thousand dollars (\$150,000.00).

c. The company shall have deposited with the custodian on behalf of the commissioner, securities with a market value of at least \$100,000.00 to be held in physical form or purchased for its account in the Federal Reserve book-entry system. The deposits shall be held for the benefit and security of all policyholders of the company depositing them. The records of the custodian, through which an insurance company holds securities in the Federal Reserve book-entry system or in physical form, shall at all times show that these securities are held for an insurance company and for which accounts thereof.

Every individual or partnership authorized to transact business pursuant to this chapter shall conform to all requirements of this chapter applicable to corporations of this State and which by their nature are applicable to individuals or partnerships. When in this chapter reference is made to officers of an investment company, such reference shall be deemed to be reference to the individual or to the members of a partnership. The commissioner may refuse to issue a certificate of authority to any individual or partnership and may cancel any outstanding certificate of authority of any individual or partnership, if in his judgment, the interests of the public would be best served by such refusal or cancellation.

10. Section 7 of P.L.1975, c.106 (C.17:46B-7) is amended to read as follows:

C.17:46B-7 Financial requirement.

7. Financial requirement.

a. Every title insurance company shall have a minimum capital, which shall be paid in and maintained, of not less than \$500,000.00 and, in addition, paid-in surplus of at least \$250,000.00.

b. Every title insurance company shall, prior to the issuance of any policy of title insurance in this State, have on deposit with the Commissioner of Insurance of the state of its domicile or in segregated funds if permitted by the company's state of domicile the sum of \$100,000.00 as a fund for the security and protection of its policyholders wherever situated, or beneficiaries under such policies. The amount of such deposit shall be increased by the sum of \$50,000.00 for each state or territorial subdivision of the United States, other than the state of its domicile, in which it shall be or become qualified to engage in the business of title insurance, less the amount required by and deposited in such other states or territorial subdivisions. When the aggregate of amounts so deposited in this or such other states or territorial subdivisions has reached the sum of \$250,000.00 no further deposit shall be required of such title insurance company as a condition of its qualification to engage in the business of title insurance in this State.

In the event any company is unable to make the deposits herein required in the state of its domicile by reason of a lack of statutory authority for such deposits, then such deposits may be made with the commissioner of this State.

c. The deposit required to be made by subsection b. of this section may be made in lawful money of the United States or in the classes of securities authorized by the provisions of R.S.17:20-1.

d. Assets deposited pursuant to subsection b. of this section may, with the approval of the commissioner, be exchanged from time to time for other assets of like value.

e. As long as the capital of the depositing title insurance company remains unimpaired, it shall receive the income, interest and dividends on any assets deposited.

f. Any title insurance company which has deposited assets pursuant to subsection b. of this section may, with the approval of the commissioner, withdraw any part of the assets so deposited; provided, however, that should said title insurance company continue to engage in the business of title insurance, it shall not be permitted to withdraw assets that would reduce the amount of its deposit below the amount required by subsection b. of this section.

g. Deposits made pursuant to subsection b. of this section shall be used solely for the security and protection of the insureds under the policies and contracts of insurance issued or reinsurance assumed by such title insurance company. In the event of insolvency or dissolution of such title insurance company, such deposits shall continue to be retained by the commissioner until such time as all outstanding liabilities created by such policies, contracts, or reinsurance agreements have been discharged by reinsurance or otherwise. Such deposits, or so much thereof as shall be necessary, may be used by or with the written approval of the commissioner in the payment of claims arising under such policies, contracts or reinsurance agreements or to purchase reinsurance thereof. Any amounts then remaining with the commissioner shall be applied first to the payment of other obligations of such title insurance company, and second shall be distributed to the stockholders of such title insurance company. The actions of the commissioner shall be subject to judicial review as provided in section 58 of P.L.1975, c.106 (C.17:46B-58).

h. If, with respect to any title insurance company as defined in subsection c. of section 1 of P.L.1975, c.106 (C.17:46B-1), this section 7 requires a greater amount of capital or surplus or deposit than required of such title insurance company immediately prior to the effective date of this act, such title insurance company shall have the period ending July 1, five years after the effective date of this act within which to comply with any such increase requirement.

11. Section 6 of P.L.1945, c.161 (C.17:50-6) is amended to read as follows:

C.17:50-6 General deposit with Commissioner; filing certificate by foreign exchange.

6. Each domestic exchange transacting business in this State shall keep and maintain with the Commissioner of Insurance a general deposit of cash or securities in the sum of not less than \$100,000.00. In the case of foreign exchanges, a certificate of such deposit with the chief insurance officer of the State of domicile shall be filed with the Commissioner of Insurance of this State.

C.17:20-1.1 Procedure for holding of deposits.

12. Whenever the commissioner is required or authorized by a law of this or any other state or country to receive and hold a deposit, he may utilize the procedures for the holding of those deposits which are found in R.S.17:20-1.

Repealer.

13. R.S.17:20-5, section 1 of P.L.1966, c.85 (C.17:20-6), and N.J.S.17B:18-40 are repealed.

14. This act shall take effect on July 1 following enactment.

Approved January 4, 1990.

CHAPTER 265

AN ACT excluding certain services from employment subject to unemployment compensation and temporary disability contributions and amending R.S.43:21-19.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.43:21-19 is amended to read as follows:

Definitions.

43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et seq.), unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages paid during a calendar year (regardless of when earned) by an employer for employment.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last three or five preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no "annual payroll" because of military service shall be deleted from the reckoning; the "average annual payroll" in such case is to be determined on the basis of the prior three or five calendar years in each of which the employer had an "annual payroll" in the operation of his business, if the employer resumes his business within 12 months after separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his "average annual payroll" determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that "average annual payroll" solely for the purposes of paragraph (3) of subsection (e) of R.S.43:21-7 means the average of the annual payrolls of any employer on which he paid contributions to the State disability benefits fund for the last three or five preceding calendar years, whichever average is higher; provided further that only those wages be included on which employer contributions have been paid on or before January 31 (or the next succeeding day if such January 31 is a Saturday or

Sunday) immediately preceding the beginning of the 12-month period for which the employer's contribution rate is computed.

(b) "Benefits" means the money payments payable to an individual, as provided in this chapter (R.S.43:21-1 et seq.), with respect to his unemployment.

(c) "Base year" with respect to benefit years commencing on or after January 1, 1953, shall mean the 52 calendar weeks ending with the second week immediately preceding an individual's benefit year. "Base year" with respect to benefit years commencing on or after July 1, 1986, shall mean the first four of the last five completed calendar quarters immediately preceding an individual's benefit year.

(d) "Benefit year" with respect to any individual means the 364 consecutive calendar days beginning with the day on, or as of, which he first files a valid claim for benefits, and thereafter beginning with the day on, or as of, which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of this subsection if (1) he is unemployed for the week in which, or as of which, he files a claim for benefits; and (2) he has fulfilled the conditions imposed by subsection (e) of R.S.43:21-4.

(e) (1) "Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by the division.

(2) "Controller" means the Office of the Assistant Commissioner for Finance and Controller of the Department of Labor, established by the 1982 Reorganization Plan of the Department of Labor.

(f) "Contributions" means the money payments to the State Unemployment Compensation Fund, required by R.S.43:21-7. "Payments in lieu of contributions" means the money payments to the State Unemployment Compensation Fund by employers electing or required to make payments in lieu of contributions, as provided in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 and 43:21-7.3).

(g) "Employing unit" means the State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or

any instrumentality of any of the foregoing and one or more other states or political subdivisions or any individual or type of organization, any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.), whether such individual was hired or paid directly by such employing unit or by such agent or employee; provided the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

(1) Any employing unit which in either the current or the preceding calendar year paid remuneration for employment in the amount of \$1,000.00 or more;

(2) Any employing unit (whether or not an employing unit at the time of acquisition) which acquired the organization, trade or business, or substantially all the assets thereof, of another which, at the time of such acquisition, was an employer subject to this chapter (R.S.43:21-1 et seq.);

(3) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which together with one or more other employing units is owned or controlled (by legally enforceable means or otherwise), directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit or interest, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after December 31, 1977;

(6) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (C) is performed after December 31, 1971 and which in either the current or the preceding calendar year paid remuneration for employment in the amount of \$1,000.00 or more;

(7) Any employing unit not an employer by reason of any other paragraph of this subsection (h) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of the "unemployment compensation law" for full tax credit against the tax imposed by the federal Unemployment Tax Act, is required pursuant to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

(8) (Deleted by amendment; P.L.1977, c.307.)

(9) (Deleted by amendment; P.L.1977, c.307.)

(10) (Deleted by amendment; P.L.1977, c.307.)

(11) Any employing unit subject to the provisions of the federal Unemployment Tax Act within either the current or the preceding calendar year, except for employment hereinafter excluded under paragraph (7) of subsection (i) of this section;

(12) Any employing unit for which agricultural labor in employment as defined in R.S.43:21-19 (i) (1) (I) is performed after December 31, 1977;

(13) Any employing unit for which domestic service in employment as defined in R.S.43:21-19 (i) (1) (J) is performed after December 31, 1977;

(14) Any employing unit which having become an employer under the "unemployment compensation law" (R.S.43:21-1 et seq.), has not under R.S.43:21-8 ceased to be an employer; or for the effective period of its election pursuant to R.S.43:21-8, any other employing unit which has elected to become fully subject to this chapter (R.S.43:21-1 et seq.).

(i) (1) "Employment" means:

(A) Any service performed prior to January 1, 1972, which was employment as defined in the "unemployment compensation law" (R.S.43:21-1 et seq.) prior to such date, and, subject to the other provisions of this subsection, service performed on or after January 1, 1972, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied.

(B) (i) Service performed after December 31, 1971 by an individual in the employ of this State or any of its instrumentalities or in the employ of this State and one or more other states or their instrumentalities for a hospital or institution of higher education located in this State, if such service is not excluded from "employment" under paragraph (D) below.

(ii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of the foregoing and one or more other states or political subdivisions, if such service is not excluded from "employment" under paragraph (D) below.

(C) Service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational, or other organization, which is excluded from "employment" as defined in the federal Unemployment Tax Act, solely by reason of section 3306 (c) (8) of that act, if such service is not excluded from "employment" under paragraph (D) below.

(D) For the purposes of paragraphs (B) and (C), the term "employment" does not apply to services performed

(i) In the employ of (I) a church or convention or association of churches, or (II) an organization, or school which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, and after December 31, 1977, in the employ of a governmental entity referred to in R.S.43:21-19 (i) (1) (B), if such service is performed by an individual in the exercise of duties

- (aa) as an elected official;
 - (bb) as a member of a legislative body, or a member of the judiciary, of a state or political subdivision;
 - (cc) as a member of the State National Guard or Air National Guard;
 - (dd) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;
 - (ee) in a position which, under or pursuant to the laws of this State, is designated as a major nontenured policy making or advisory position, or a policy making or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week; or
 - (iv) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market;
 - (v) By an individual receiving work-relief or work-training as part of an unemployment work-relief or work-training program assisted in whole or in part by any federal agency or an agency of a state or political subdivision thereof; or
 - (vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.
- (E) The term "employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada and in the case of the Virgin Islands, after December 31, 1971 and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands, under section 3304 (a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than the service which is deemed employment under the provisions of R.S.43:21-19 (i) (2) or (5) of the parallel provisions of another state's unemployment compensation law), if

(i) The American employer's principal place of business in the United States is located in this State; or

(ii) The American employer has no place of business in the United States, but (I) the American employer is an individual who is a resident of this State; or (II) the American employer is a corporation which is organized under the laws of this State; or (III) the American employer is a partnership or trust and the number of partners or trustees who are residents of this State is greater than the number who are residents of another state; or

(iii) None of the criteria of divisions (i) and (ii) of this subparagraph (E) is met but the American employer has elected to become an employer subject to the "unemployment compensation law" (R.S.43:21-1 et seq.) in this State, or the American employer having failed to elect to become an employer in any state, the individual has filed a claim for benefits, based on such service, under the law of this State;

(iv) An "American employer," for the purposes of this subparagraph (E), means (I) an individual who is a resident of the United States; or (II) a partnership, if two-thirds or more of the partners are residents of the United States; or (III) a trust, if all the trustees are residents of the United States; or (IV) a corporation organized under the laws of the United States or of any state.

(F) Notwithstanding R.S.43:21-19 (i) (2), all service performed after January 1, 1972 by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this State.

(G) Notwithstanding any other provision of this subsection, service in this State with respect to which the taxes required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act is required to be covered under the "unemployment compensation law" (R.S.43:21-1 et seq.).

(H) The term "United States" when used in a geographical sense in subsection R.S.43:21-19 (i) includes the states, the District of Columbia, the Commonwealth of Puerto Rico and, effective on the

day after the day on which the U.S. Secretary of Labor approves for the first time under section 3304 (a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to the Secretary by the Virgin Islands for such approval, the Virgin Islands.

(I) (i) Service performed after December 31, 1977 in agricultural labor in a calendar year for an entity which is an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such year; or for an employing unit which

(aa) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000.00 or more for individuals employed in agricultural labor, or

(bb) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time.

(ii) For the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other entity shall be treated as an employee of such crew leader

(aa) if such crew leader holds a certification of registration under the Migrant and Seasonal Agricultural Work Protection Act, Pub. L. 97-470 (29 U.S.C. § 1801 et seq.), or P.L.1971, c.192 (C.34:8A-7 et seq.); or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(bb) if such individual is not an employee of such other person for whom services were performed.

(iii) For the purposes of subparagraph (I) (i) in the case of any individual who is furnished by a crew leader to perform service in agricultural labor or any other entity and who is not treated as an employee of such crew leader under (I) (ii)

(aa) such other entity and not the crew leader shall be treated as the employer of such individual; and

(bb) such other entity shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader

(either on his own behalf or on behalf of such other entity) for the service in agricultural labor performed for such other entity.

(iv) For the purpose of subparagraph (I) (i), the term “crew leader” means an individual who

(aa) furnishes individuals to perform service in agricultural labor for any other entity;

(bb) pays (either on his own behalf or on behalf of such other entity) the individuals so furnished by him for the service in agricultural labor performed by them; and

(cc) has not entered into a written agreement with such other entity under which such individual is designated as an employee of such other entity.

(J) Domestic service after December 31, 1977 performed in the private home of an employing unit which paid cash remuneration of \$1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year.

(2) The term “employment” shall include an individual’s entire service performed within or both within and without this State if:

(A) The service is localized in this State; or

(B) The service is not localized in any state but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual’s residence is in this State.

(3) Services performed within this State but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

(4) Services not covered under paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government,

shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if the individual performing such services is a resident of this State and the employing unit for whom such services are performed files with the division an election that the entire service of such individual shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.).

(5) Service shall be deemed to be localized within a state if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

(6) Services performed by an individual for remuneration shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) unless and until it is shown to the satisfaction of the division that:

(A) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

(7) Provided that such services are also exempt under the federal Unemployment Tax Act, as amended, or that contributions with respect to such services are not required to be paid into a state unemployment fund as a condition for a tax offset credit against the tax imposed by the federal Unemployment Tax Act, as amended, the term "employment" shall not include:

(A) Agricultural labor performed prior to January 1, 1978; and after December 31, 1977, only if performed in a calendar year for an entity which is not an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such calendar year; or unless performed for an employing unit which

(i) during a calendar quarter in either the current or the preceding

calendar year paid remuneration in cash of \$20,000.00 or more to individuals employed in agricultural labor, or

(ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time;

(B) Domestic service in a private home performed prior to January 1, 1978; and after December 31, 1977, unless performed in the private home of an employing unit which paid cash remuneration of \$1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year;

(C) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;

(D) Service performed prior to January 1, 1978, in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions, except as provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ of the South Jersey Port Corporation or its successors;

(E) Service performed in the employ of any other state or its political subdivisions or of an instrumentality of any other state or states or their political subdivisions to the extent that such instrumentality is with respect to such service exempt under the Constitution of the United States from the tax imposed under the federal Unemployment Tax Act, as amended, except as provided in R.S.43:21-19 (i) (1) (B) above;

(F) Service performed in the employ of the United States Government or of any instrumentality of the United States except under the Constitution of the United States from the contributions imposed by the "unemployment compensation law," except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and

services; provided that if this State shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the federal Internal Revenue Code (26 U.S.C. § 3304), the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in R.S.43:21-14 (f) with respect to contributions erroneously paid to or collected by the division;

(G) Services performed in the employ of fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association, or their dependents;

(H) Services performed as a member of the board of directors, a board of trustees, a board of managers, or a committee of any bank, building and loan, or savings and loan association, incorporated or organized under the laws of this State or of the United States, where such services do not constitute the principal employment of the individual;

(I) Service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress;

(J) Service performed by agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, by agents of insurance companies, exclusive of industrial insurance agents or by agents of investment companies, if the compensation to such agents for such services is wholly on a commission basis;

(K) Services performed by real estate salesmen or brokers who are compensated wholly on a commission basis;

(L) Services performed in the employ of any veterans' organization chartered by Act of Congress or of any auxiliary thereof, no part of the net earnings of which organization, or auxiliary thereof, inures to the benefit of any private shareholder or individual;

(M) Service performed for or in behalf of the owner or operator of any theatre, ballroom, amusement hall or other place of entertainment, not in excess of 10 weeks in any calendar year for the same owner or operator, by any leader or musician of a band or orchestra, commonly called a "name band," entertainer, vaudeville artist, actor, actress, singer or other entertainer;

(N) Services performed after January 1, 1973 by an individual for a labor union organization, known and recognized as a union local, as a member of a committee or committees reimbursed by the union local for time lost from regular employment, or as a part-time officer of a union local and the remuneration for such services is less than \$1,000.00 in a calendar year;

(O) Services performed in the sale or distribution of merchandise by home-to-home salespersons or in-the-home demonstrators whose remuneration consists wholly of commissions or commissions and bonuses;

(P) Service performed in the employ of a foreign government, including service as a consular, nondiplomatic representative, or other officer or employee;

(Q) Service performed in the employ of an instrumentality wholly owned by a foreign government if (i) the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof, and (ii) the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(R) Service in the employ of an international organization entitled to enjoy the privileges, exemptions and immunities under the International Organizations Immunities Act (22 U.S.C. § 288 et seq.);

(S) Service covered by an election duly approved by an agency charged with the administration of any other state or federal unemployment compensation or employment security law, in accordance with an arrangement pursuant to R.S.43:21-21 during the effective period of such election;

(T) Service performed in the employ of a school, college, or university if such service is performed (i) by a student enrolled at such school, college, or university on a full-time basis in an educational program or completing such educational program leading to a degree at any of the severally recognized levels, or (ii) by the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service that (I) the employment of such spouse to perform such service is provided under a program to provide

financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance;

(U) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(V) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital; service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and regularly attending classes in a nurses' training school approved under the laws of this State; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school approved pursuant to the laws of this State;

(W) Services performed after the effective date of this amendatory act by agents of mutual benefit associations if the compensation to such agents for such services is wholly on a commission basis;

(X) Services performed by operators of motor vehicles weighing 18,000 pounds or more, licensed for commercial use and used for the highway movement of motor freight, who own their equipment or who lease or finance the purchase of their equipment through an entity which is not owned or controlled directly or indirectly by the entity for which the services were performed and who were compensated by receiving a percentage of the gross revenue generated by the transportation move or by a schedule of payment based on the distance and weight of the transportation move;

(Y) Services performed by a certified shorthand reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), provided to a third party by the reporter who is referred to the third party pursuant to an agreement with another certified shorthand reporter or shorthand reporting service, on a freelance basis, compensation for which is based upon a fee per transcript page, flat attendance fee, or other flat minimum fee, or combination thereof, set forth in the agreement.

(8) If one-half or more of the services in any pay period performed by an individual for an employing unit constitutes employment, all the services of such individual shall be deemed to be employment; but if more than one-half of the service in any pay period performed by an individual for an employing unit does not constitute employment, then none of the service of such individual shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than 31 consecutive days for which a payment for service is ordinarily made by an employing unit to individuals in its employ.

(9) Services performed by the owner of a limousine franchise (franchisee) shall not be deemed to be employment subject to the "unemployment compensation law," R.S.43:21-1 et seq., with regard to the franchisor if:

(A) The limousine franchisee is incorporated;

(B) The franchisee is subject to regulation by the Interstate Commerce Commission;

(C) The limousine franchise exists pursuant to a written franchise arrangement between the franchisee and the franchisor as defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

(D) The franchisee registers with the Department of Labor and receives an employer registration number.

(j) "Employment office" means a free public employment office, or branch thereof operated by this State or maintained as a part of a State-controlled system of public employment offices.

(k) (Deleted by amendment, P.L.1984, c.24.)

(l) "State" includes, in addition to the states of the United States of America, the District of Columbia, the Virgin Islands and Puerto Rico.

(m) "Unemployment."

(1) An individual shall be deemed "unemployed" for any week during which he is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate, including any week during which he is on vacation without pay; provided such vacation is not the result of the individual's voluntary action, except that for benefit years commencing on or after July 1, 1984, an officer of a corporation, or a person who has more than a 5% equitable or debt interest in the corporation, whose claim for benefits

is based on wages with that corporation shall not be deemed to be unemployed in any week during the individual's term of office or ownership in the corporation.

(2) The term "remuneration" with respect to any individual for benefit years commencing on or after July 1, 1961, and as used in this subsection, shall include only that part of the same which in any week exceeds 20% of his weekly benefit rate (fractional parts of a dollar omitted) or \$5.00, whichever is the larger.

(3) An individual's week of unemployment shall be deemed to commence only after the individual has filed a claim at an unemployment insurance claims office, except as the division may by regulation otherwise prescribe.

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter (R.S.43:21-1 et seq.), from which administrative expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

(o) "Wages" means remuneration paid by employers for employment. If a worker receives gratuities regularly in the course of his employment from other than his employer, his "wages" shall also include the gratuities so received, if reported in writing to his employer in accordance with regulations of the division, and if not so reported, his "wages" shall be determined in accordance with the minimum wage rates prescribed under any labor law or regulation of this State or of the United States, or the amount of remuneration actually received by the employee from his employer, whichever is the higher.

(p) "Remuneration" means all compensation for personal services, including commission and bonuses and the cash value of all compensation in any medium other than cash.

(q) "Week" means for benefit years commencing on or after October 1, 1984, the calendar week ending at midnight Saturday, or as the division may by regulation prescribe.

(r) "Calendar quarter" means the period of three consecutive calendar months ending March 31, June 30, September 30, or December 31.

(s) "Investment company" means any company as defined in subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

(t) (1) "Base week" for a benefit year commencing prior to Octo-

ber 1, 1984, means, except as otherwise provided in paragraph (2) of this subsection, any calendar week of an individual's base year during which he earned in employment from an employer remuneration equal to not less than \$30.00. "Base week" for a benefit year commencing on or after October 1, 1984 and prior to October 1, 1985 means any calendar week of an individual's base year during which the individual earned in employment from an employer remuneration equal to not less than 15% of the Statewide average weekly remuneration defined in subsection (c) of R.S.43:21-3, which shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof.

"Base week" for a benefit year commencing on or after October 1, 1985 means, except as otherwise provided in paragraph (2) of this subsection, any calendar week of an individual's base year during which the individual earned in employment from an employer remuneration equal to not less than 20% of the Statewide average weekly remuneration defined in subsection (c) of R.S.43:21-3 which shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof; provided if in any calendar week an individual is in employment with more than one employer, he may in such calendar week establish a base week with respect to each such employer from whom the individual earns remuneration equal to not less than the amount defined in this paragraph (1) during such week.

(2) "Base week," with respect to an individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops, means, for a benefit year commencing on or after October 1, 1984 and before January 1, 1985, any calendar week of an individual's base year during which the individual earned in employment from an employer remuneration equal to not less than \$30.00, except that if in any calendar week an individual subject to this paragraph is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration equal to not less than the amount defined in this paragraph (2) during that week.

(u) "Average weekly wage" means the amount derived by dividing an individual's total wages received during his base year base weeks (as defined in subsection (t) of this section) from that most recent base year employer with whom he has established at least 20 base weeks, by the number of base weeks in which such wages were earned. In the event that such claimant had no employer in his base year with whom he had established at least 20 base weeks, then such

individual's average weekly wage shall be computed as if all of his base week wages were received from one employer and as if all his base weeks of employment had been performed in the employ of one employer.

For the purpose of computing the average weekly wage, the monetary alternative in subsection (e) of R.S.43:21-4 shall only apply in those instances where the individual did not have at least 20 base weeks in the base year. For benefit years commencing on or after July 1, 1986, "average weekly wage" means the amount derived by dividing an individual's total base year wages by the number of base weeks worked by the individual during the base year; provided that for the purpose of computing the average weekly wage, the maximum number of base weeks used in the divisor shall be 52.

(v) "Initial determination" means, subject to the provisions of R.S.43:21-6 (b) (2) and (3), a determination of benefit rights as measured by an eligible individual's base year employment with a single employer covering all periods of employment with that employer during the base year. For benefit years commencing prior to July 1, 1986, subject to the provisions of R.S.43:21-3 (d) (3), if an individual has been in employment in his base year with more than one employer, no benefits shall be paid to that individual under any successive initial determination until his benefit rights have been exhausted under the next preceding initial determination.

(w) "Last date of employment" means the last calendar day in the base year of an individual on which he performed services in employment for a given employer.

(x) "Most recent base year employer" means that employer with whom the individual most recently, in point of time, performed service in employment in the base year.

(y) (1) "Educational institution" means any public or other non-profit institution (including an institution of higher education):

(A) In which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor(s) or teacher(s);

(B) Which is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the State to approve, license or issue a permit for the operation of a school; and

(C) Which offers courses of study or training which may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(2) "Institution of higher education" means an educational institution which:

(A) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) Is legally authorized in this State to provide a program of education beyond high school;

(C) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(D) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this section.

(z) "Hospital" means an institution which has been licensed, certified or approved under the law of this State as a hospital.

2. This act shall take effect immediately.

Approved January 4, 1990.

CHAPTER 266

AN ACT concerning the use of generally accepted accounting principles in the fiscal operation of local school districts, amending N.J.S.18A:4-14 and P.L.1987, c.165 and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.18A:4-14 is amended to read as follows:

Uniform system of bookkeeping for school districts.

18A:4-14. The State Board shall prescribe a uniform system of

double entry bookkeeping which is consistent with the generally accepted accounting principles established by the Governmental Accounting Standards Board and which is consistent with the financial accounting terminology and classifications established by the National Center for Education Statistics for use in all school districts and compel the maintenance and use of the same.

2. Section 4 of P.L.1987, c.165 (C.18A:4-14.1) is amended to read as follows:

C.18A:4-14.1 Conformity to uniform system.

4. By July 1 of the sixth year following enactment of this act, all school districts shall conform to the uniform system of double entry bookkeeping prescribed by N.J.S.18A:4-14.

3. This act shall take effect immediately.*

Approved January 4, 1990.

*Appropriation deleted by line-item veto of the Governor. See statement following.

Statement to Chapter 266
(Senate Bill No. 3626 (First Reprint))

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I am appending to Senate Bill No. 3626 (First Reprint) at the time of signing it my statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to, shall not take effect.

This bill modifies the provisions of P.L.1987, c.165, which established a requirement for all local school districts to use a system of double-entry bookkeeping consistent with the generally accepted accounting principles established by the Governmental Accounting Standards Board. Pursuant to this bill, the State Board of Education would prescribe the use of financial accounting terminology and classifications which are consistent with those established by the National Center for Education Statistics. The bill also delays the implementation of the uniform system until the 1993-1994 fiscal year to give the Department of Education time to develop and publish a minimum chart of accounts consistent with the new system and to allow the Department to establish programs to train staffs of local boards of education and others in the use and application of the new system.

While I support the adoption of standardized financial accounting terminology and classifications for boards of education, I cannot support this bill's appropriation of \$85,000 from the General Fund at this time due to the current fiscal situation. While there may be some benefit to receiving these funds in the current fiscal year, that benefit is clearly outweighed by the need to reduce spending in this time of fiscal austerity. The \$85,000 provided in this bill to train school employees in the new accounting system's terminology is simply an expense that the Department of Education must bear within the constraints of its existing budget. Consequently, I have deleted the \$85,000 appropriation from this bill.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

Page 1, Section 3, Lines 24-26: Delete in their entirety

Page 1, Section 4, Line 27: Delete "4." insert "3."

Respectfully,

Thomas H. Kean
Governor

CHAPTER 267

AN ACT concerning investments by life and health insurers and amending N.J.S.17B:20-1, N.J.S.17B:20-2, N.J.S.17B:20-4, N.J.S.17B:28-7 and N.J.S.17B:28-9.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.17B:20-1 is amended to read as follows:

Investments of domestic insurers.

17B:20-1. Any domestic insurer may invest its capital, surplus and other funds, or any part thereof, in:

- a. Bonds, notes, or other evidences of indebtedness or public stock issued, created, insured or guaranteed by the United States, any territory or possession thereof, this or any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada, or any of the provinces thereof, or any in-

strumentality, agency or political subdivision of one or more of the foregoing.

b. Real estate which may be improved or which is unimproved but acquired in accordance with a definite plan for development within not more than five years, and in the improvement, development, operation or leasing thereof; provided, that if the commissioner shall determine that the interest of such insurer's policyholders requires that any specific real estate so acquired be disposed of, then such insurer shall dispose of such real estate within such reasonable time as the commissioner shall direct; and provided further, that the sum of (1) the aggregate amount invested in such real estate (including real estate held pursuant to N.J.S.17B:18-45 of this title) and (2) the aggregate amount invested in capital stock of any subsidiary of the insurer pursuant to N.J.S.17B:20-4, engaged in a business primarily involving the owning, improving, developing, operating or leasing of real estate, shall not exceed 10% of the total admitted assets of such insurer as of December 31 next preceding. Real estate used primarily for agricultural, horticultural, ranching, mining, forestry or recreational purposes shall be deemed improved within the meaning of this subsection b. The term "real estate" as used in this chapter shall include any real property and any interest therein, including, without limitation, any interest on, above or below the surface of the land, any leasehold estate therein, and any such interest held or to be held by the insurer in cotenancy with one or more other persons and any partnership interest held by the insurer in any general or limited partnership engaged in a business primarily involving the owning, improving, developing, operating or leasing of real estate. Income produced by investment in any such leasehold shall be applied in a manner calculated to amortize the amount invested in such leasehold within a period not exceeding eight-tenths of the unexpired term of the leasehold, inclusive of enforceable options, or within 40 years, whichever is the lesser, or where the peculiar nature of the leasehold involved so dictates, within such period and subject to such other reasonable limitations as the commissioner shall by regulation impose. For the purposes of this subsection b., a mortgage loan shall not be deemed to be an investment in real estate, notwithstanding the mortgagor is an institution in which such insurer has an ownership interest as shareholder, partner, or otherwise. The commissioner may promulgate a regulation in connection with investments under this subsection b. which shall, as far as practicable, be consistent with those regulations of the department which treat with securities supported by such interests in real estate.

c. Mortgage loans on unencumbered real estate, located within the United States, any territory or possession thereof, the Commonwealth of Puerto Rico or Canada. The amount of any such loan shall not exceed 80% of the value of the real estate mortgaged unless (1) the loan is also secured by the mortgagor's interest in a lease or leases whose aggregate rentals shall be sufficient, after payment of operating expenses and fixed charges, to repay 90% of the loan with interest thereon during the initial term or terms of such lease or leases and shall be payable directly or indirectly by any governmental units, instrumentalities, agencies or political subdivisions or an institution or institutions which meet the credit standards of the insurer for an unsecured loan to such institution or institutions or (2) the loan is secured by a purchase money mortgage or like security received by the insurer upon the sale or exchange of real estate acquired pursuant to any provision of this title or (3) the excess over such 80% is insured or guaranteed or to be insured or guaranteed by the United States, any territory or possession thereof, this or any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada or any of the provinces thereof, or any instrumentality, agency or political subdivision of one or more of the foregoing. Any mortgage loan so insured or guaranteed or to be insured or guaranteed shall not be subject to the provisions of any law of this State prescribing or limiting the interest which may be charged or taken upon any such loan.

Any such insurer may hold a participation in any such mortgage loan if (1) such participation is senior and gives the holder substantially the rights of a first mortgagee or (2) the interest of such insurer in the evidence or evidences of indebtedness is of equal priority, to the extent of such interest, with other interests therein.

Any such mortgage loan which exceeds two-thirds of the value of the real estate mortgaged shall provide for such payments of principal, whatever the period of the loan, that at no time during the period of the loan shall the aggregate payments of principal theretofore required to be made under the terms of the loan be less than would have been necessary to reduce the loan to two-thirds of such value by the end of 35 years through payments of interest only for five years and equal payments applicable first to interest and then to principal at the end of each year thereafter. The commissioner may promulgate such supplemental regulations as he deems necessary with regard to particular classes of such investments, taking into consideration the type of security and the ratio of the loan to the value of the real estate mortgaged. No loan may be made on leasehold real estate unless the

terms of such loan provide for payments to be made by the borrower on the principal thereof in amounts sufficient to completely repay the loan within a period not exceeding nine-tenths of the term of the leasehold, inclusive of the term or terms which may be provided by any enforceable option or options of extension or of renewal, which is unexpired at the time the loan is made.

Real estate shall not be deemed to be encumbered within the meaning of this subsection c. by reason of the existence of taxes or assessments that are not delinquent, or encumbrances that do not adversely affect the salability of the property to a material extent or as to which the insurer is insured against loss by title insurance, or any prior mortgage or mortgages held by such insurer if the aggregate of the mortgages held shall not exceed the amount hereinbefore set forth, nor when such real estate is subject to lease in whole or in part; provided, that the security created by the mortgage on such real estate is a first lien thereon. Real estate shall not be deemed to be encumbered and the security of the mortgage thereon shall be deemed a first lien within the meaning of this subsection c., notwithstanding the mortgagor is an institution in which such insurer has an ownership interest as shareholder, partner or otherwise.

No such insurer shall, pursuant to this subsection c., invest more than 2% of its total admitted assets as of December 31 next preceding in any mortgage loan secured by any one property, nor shall its total mortgage investments pursuant to this subsection c., exclusive of any mortgage loans secured by a purchase money mortgage or like security received by the insurer upon the sale or exchange of real estate acquired pursuant to any provision of this title or insured or guaranteed or to be insured or guaranteed as hereinbefore provided, exceed 60% of such admitted assets.

d. Tangible personal property, equipment trust obligations or other instruments evidencing an ownership interest or other interest in tangible personal property where there is a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such personal property, provided, that the aggregate of such payments, together with the estimated salvage value of such property at the end of its minimum useful life and the estimated tax benefits to the insurer resulting from ownership of such property, is adequate to return the cost of the investment in such property, and provided further, that the aggregate net investments therein shall not exceed 10% of the total admitted assets of such insurer as of December 31 next preceding; or certificates of

receivers of any institution where such purchase is necessary to protect an investment in the securities of such institution theretofore made under authority of this chapter; or the capital stock, beneficial shares or other instruments evidencing an ownership interest, bonds, securities or evidences of indebtedness issued, assumed or guaranteed by any institution created or existing under the laws of the United States, any territory or possession thereof, this or any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Canada or any of the provinces thereof; provided, that no purchase of any evidence of indebtedness which is in default as to interest shall be made by such insurer unless such purchase is necessary to protect an investment theretofore made under statutory authority.

The term "institution" as used in this chapter shall include any corporation, joint stock association, business trust, business joint venture, business partnership, savings and loan association, credit union or other mutual savings institution. No purchase shall be made of the stock of any class of any corporation, except a subsidiary of the insurer pursuant to N.J.S.17B:20-4, unless (1) such corporation has paid cash dividends on such class of stock during each of the past five years preceding the time of purchase or (2) such corporation shall have earned during the period of such five years an aggregate sum available for dividends upon such stock which would have been sufficient, after all fixed charges and obligations, to pay dividends upon all shares of such class of stock outstanding during such period averaging 4% per annum computed upon the par value (or in the case of stock having no par value, upon the stated capital in respect thereof) of such stock. In the case of the stock of a corporation resulting from or formed by merger, consolidation, acquisition or otherwise less than five years prior to such purchase, each consecutive year next preceding the effective date of such merger, consolidation or acquisition during which dividends or other distributions of profits shall have been paid by any one or more of its constituent or predecessor institutions shall be deemed a year during which dividends have been paid on such class of stock and the earnings of such constituent or predecessor institutions available for dividends during each of such years may be included as earnings of the existing corporation whose stock is to be purchased for each of such years; provided, however, that nothing herein contained shall prohibit the purchase of stock of any class which is preferred, as to dividends, over any class the purchase of which is not prohibited by this section; and provided further, that no purchase of its own stock shall be made

by any insurer except for the purpose of the retirement of such stock or except as specifically permitted by any law of this State applicable by its terms only to insurers.

e. Securities, properties and other investments in foreign countries, in addition to those specified in N.J.S.17B:20-5, which are substantially of the same character as prescribed for authorized investments for funds of the insurer under the preceding subsections of this section, to an amount valued at cost, not exceeding in the aggregate at any one time 5% of the total admitted assets of such insurer as of December 31 next preceding; provided, however, that the amount invested pursuant to this subsection e. in authorized investments, other than qualified foreign investments, shall not exceed in the aggregate, at any one time, 2% of such admitted assets; and provided further that the amount invested in authorized investments in any one foreign country pursuant to this subsection e. shall not exceed in the aggregate, at any one time, 2% of such admitted assets. For the purposes of this subsection e., Canada shall not be deemed to be a foreign country.

The term "qualified foreign investment" as used in this subsection e. shall include any investment in a foreign country where: (1) the issuer or obligor is (a) a jurisdiction which is rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency, (b) any political subdivision or other governmental unit of any such jurisdiction, or any agency or instrumentality of any such jurisdiction, political subdivision or other governmental unit, or (c) an institution which is organized under the laws of any such jurisdiction, or, in the case of investments which are substantially of the same character as prescribed for investments under subsections b. and c. of this section, the real property is located in any such jurisdiction; and (2) if the investment is denominated in any currency other than United States dollars, the investment is effectively hedged, substantially in its entirety, against the United States dollar pursuant to contracts or agreements which are (a) issued by or traded on a securities exchange or board of trade regulated under the laws of the United States or Canada or a province thereof, (b) entered into with a United States banking institution which has assets in excess of \$5,000,000,000 and which has obligations outstanding, or has a parent corporation which has obligations outstanding, which are rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency, or with a broker-dealer registered with the Securities and Exchange Commission which has net capital in excess of

\$250,000,000, or (c) entered into with any other banking institution which has assets in excess of \$5,000,000,000 and which has obligations outstanding, or has a parent corporation which has obligations outstanding, which are rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency and which is organized under the laws of a jurisdiction which is rated in one of the two highest rating categories by an independent, nationally recognized United States rating agency.

Any investment qualified pursuant to paragraph (2) of the preceding definition of "qualified foreign investment" shall remain so qualified only at such time or times that the hedging requirements of paragraph (2) are met.

f. Bonds, notes, or other evidences of indebtedness, issued, insured or guaranteed or to be insured or guaranteed by the International Bank for Reconstruction and Development, or by the Inter-American Development Bank, or by the Asian Development Bank, or by the African Development Bank, except that no funds invested in obligations issued, insured or guaranteed by the African Development Bank shall be used in or shall go to South Africa.

g. Collateral loans secured by a pledge of capital stock, beneficial shares or other instruments evidencing an ownership interest, bonds, securities or evidences of indebtedness qualified or permitted for investment under any of the preceding subsections of this section. The amount of any such loan shall not exceed 80% of the market value of the security pledged at the date of the loan.

h. Loans or investments which are not qualified or permitted under any of the preceding subsections of this section or which are not otherwise expressly authorized by law; provided, that the aggregate amount of such loans and investments, valued at cost, shall not exceed at any one time 7% of the total admitted assets of such insurer as of December 31 next preceding.

For the purposes of subsection c. and this subsection h., the portion of a mortgage loan on unencumbered real estate which does not exceed 80% of the value of the real estate mortgaged shall be deemed to be a permitted investment under subsection c. and the remainder of said loan may be deemed to be made under this subsection h. Any investment originally made under this subsection h. which would subsequently, if it were being made, qualify as a permitted investment under another subsection of this section shall thenceforth be deemed to be a permitted investment under such other subsection.

2. N.J.S.17B:20-2 is amended to read as follows:

Limitation of investments.

17B:20-2. The amount (excluding amounts invested in the common stock of any corporation pursuant to N.J.S.17B:20-3 and N.J.S.17B:20-4) invested by a domestic insurer (a) in the common stock of any one corporation shall not exceed 2% of the total admitted assets of such insurer as of December 31 next preceding, or (b) in the common stock of all corporations valued at cost shall not exceed 15% of such assets except that to the extent that such aggregate investment in common stock exceeds 10% of such assets, further investments shall be subject to regulation by the commissioner under a formula which shall take into consideration the actual mandatory securities valuation reserve, as defined by the Subcommittee on Valuation of Securities of the National Association of Insurance Commissioners, held by a company which is applicable to such common stock in the corresponding annual statement filed with the department. The term "common stock" shall mean any voting stock of any class of a corporation which shall not be limited to a fixed sum or percentage of par value in respect to the rights of the holders thereof to participate in dividends or in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the corporation. Neither shall the amount invested in the beneficial shares or other ownership interests (other than common stock), evidences of indebtedness (excluding amounts invested in mortgage loans pursuant to subsection c. of N.J.S.17B:20-1), preferred stock and certificates of receivers of any one institution exceed 5% of such assets of the insurer. Nothing herein contained shall prevent any such insurer from purchasing, or in any other way acquiring the voting stock of, or otherwise investing in certain corporations as hereinafter provided in N.J.S.17B:20-3 and N.J.S.17B:20-4.

The total amount of admitted assets invested in the types of investments authorized by subsections b. and c. of N.J.S.17B:20-1 shall not, in the aggregate, exceed 60% of the domestic insurer's total admitted assets.

All investments made by any such insurer shall be authorized or approved by the board of directors, or by a committee designated by the board of directors and charged with the duty of supervising such investment, or shall be made in conformity with standards or investment objectives approved by such board of directors or such committee.

No such insurer shall enter into any agreement to withhold from sale any of its property or jointly or severally enter into any agreement to purchase the unsold amount of securities which are the subject of an offering for sale to the public or otherwise to guarantee the sale of such securities.

Nothing contained in this section shall prevent any such insurer from distributing shares of an investment company within the meaning of the Investment Company Act of 1940 for which such insurer or its subsidiary is the investment manager or investment adviser.

The term "Investment Company Act of 1940" as used in this section shall mean an Act of Congress entitled "Investment Company Act of 1940," 54 Stat. 847 (15 U.S.C. § 80a-1 et seq.) as amended from time to time, or any similar statute enacted in substitution therefor.

3. N.J.S.17B:20-4 is amended to read as follows:

Stock of subsidiary or alien corporations.

17B:20-4. In addition to the authority expressly contained in this chapter and notwithstanding any limitation contained in this title, any domestic insurer may invest in the voting stock of one or more subsidiaries, as provided in this section.

a. As used in this section the following terms shall have the following meanings: (1) "voting stock" as used with reference to any corporation means any shares of capital stock of such corporation having general voting power under ordinary circumstances, when voting (together with one or more other classes, if any) as a class, to elect a majority of the board of directors of such corporation irrespective of whether or not at the time stock of any other class or classes shall have, or might have, voting power by reason of the happening of any contingency, and shall also include voting trust certificates, certificates of deposit, interim receipts and other similar instruments representing such stock and (2) "subsidiary" means a corporation of which a majority of the voting stock is owned or controlled by a domestic insurer, or by one or more subsidiaries of such insurer or by such insurer and one or more subsidiaries of such insurer, except that "subsidiary" shall not include a corporation of which a majority of the voting stock is acquired by the insurer or its subsidiaries pursuant to any other section of this chapter.

b. The business of a subsidiary, whether or not it is organized under the laws of this State, shall be limited to that authorized for a corporation organized under any law of this State, except that

“subsidiary” shall not include any bank organized pursuant to the laws of this State and shall not include any national bank maintaining its principal office in this State.

c. (Deleted by amendment, P.L.1989, c.267.)

d. The investments of any such subsidiary engaged exclusively in the ownership and management of assets authorized as investments for the insurer when added, on a basis proportional to the insurer's interest in such subsidiary, to the investments of such insurer (referred to herein as the “controlling insurer”) shall not cause the investments of the controlling insurer to exceed any of the limitations applicable to domestic insurers contained in N.J.S.17B:20-1 or N.J.S.17B:20-2 of this chapter except as may be permitted by subsection h. of N.J.S.17B:20-1 or N.J.S.17B:20-3.

e. The investment in such subsidiary shall not tend substantially to lessen competition or tend to create a monopoly.

f. Such subsidiary shall not be used directly or indirectly to promote the private interests of any officer or director of such insurer, except that compensation may be paid by any subsidiary to officers and directors of such insurer for services rendered when such compensation is authorized by the board of directors of such subsidiary and approved by the board of directors of such insurer.

g. The aggregate amount invested by the controlling insurer in the voting stock of all subsidiaries pursuant to this section together with the aggregate amount of all other investments of the controlling insurer in such subsidiaries, valued at cost (less any amount invested by the controlling insurer and such subsidiaries in any subsidiary which is (1) engaged primarily in the life insurance business or (2) engaged exclusively in the ownership and management of assets authorized as investments for the controlling insurer) shall not exceed 8% of the total admitted assets of such insurer as of December 31 next preceding.

h. Within 30 days, or such longer period as may be permitted by the commissioner, after an investment in voting stock of any subsidiary has been made by the controlling insurer or any subsidiary thereof pursuant to this section, the controlling insurer shall file notice of such investment with the commissioner; provided, that after an investment in voting stock has been made pursuant to this section, no notice of further investments in the voting stock or other securities of the same subsidiary shall be required. The commissioner shall have the power to conduct periodic examinations and require reports in

connection with the operation of subsidiaries and, if he shall determine either that the interests of policyholders or the public so require or that the investments of any subsidiary do not comply with the requirements of this section, to order that a domestic insurer or any subsidiary thereof dispose of its investment in any subsidiary or that any subsidiary dispose of any noncomplying investments, in each case within a reasonable period of time.

i. Each domestic insurer that has made investments in one or more subsidiaries shall annually, on or before May 1, file a subsidiary information report with the commissioner. The report shall set forth the name of each subsidiary in which such insurer has made an investment, the aggregate amount invested by the controlling insurer in each such subsidiary, valued at cost, and such other information with respect to each such subsidiary as the commissioner may prescribe.

j. The aggregate amount invested by the controlling insurer pursuant to this section in the voting stock of all subsidiaries engaged primarily in the life insurance business, together with the aggregate amount of all other investments of the controlling insurer in such subsidiaries, valued at cost, shall not exceed 5% of the total admitted assets of such insurer as of December 31 next preceding.

4. N.J.S.17B:28-7 is amended to read as follows:

Separate accounts; approval by commissioner.

17B:28-7. Separate accounts; approval by commissioner. Any present or future domestic insurer shall have authority to establish and operate one or more separate accounts and to issue separate account contracts, whether or not contracts on a variable basis, with the approval of the commissioner, and the issuance or delivery of such contracts in this State by any foreign or alien insurer shall be subject to like approval. The commissioner, in granting or withholding any such approval, shall consider in addition to the matters referred to in N.J.S.17B:28-2, 17B:28-5, and 17B:28-15, if applicable, the following:

a. The type or types of contracts the funds from which will be placed in the separate accounts;

b. The extent to which, if any, the dollar amount of benefits or other contractual payments or values under such contracts will be guaranteed;

c. The investment limitations that will be applicable to the separate account;

d. The manner of valuing the assets of the account and the method or methods to be used to compute the liabilities arising from the contracts described in subsection a. of this section;

e. If such contracts are annuity contracts, whether or not they will be participating; and

f. Such other matters as the commissioner shall deem relevant.

Any such approval by the commissioner may be subject to such conditions as he may impose as being necessary for the protection of the public or of such insurer's policyholders. Any approval by the commissioner pursuant to this section may be granted with respect to a single separate account or a class of separate accounts having common characteristics.

For any separate account established and maintained solely for one or more employer group contracts sold to fund an employee benefit plan, which contracts constitute group contracts for the purposes of paragraph (v) of subsection a. of N.J.S.17B:28-9, an insurer may establish and maintain such account 45 days after filing its request for the commissioner's approval, unless within that time the commissioner shall have approved or disapproved the account, provided that neither the insurer nor any such contract shall provide a guaranty, including any index guaranty, of the dollar amount of benefits or other contractual payments or values under such contract. Any disapproval shall state in writing the grounds therefor in such detail as reasonable to inform the insurer thereof. The disapproval by the commissioner of any such account may be on the ground that the account is contrary to law or the public policy of this State. Any disapproval shall be subject to review in accordance with the procedure set forth in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and any rules or regulations adopted thereunder.

5. N.J.S.17B:28-9 is amended to read as follows:

Investment of assets; eligibility; definition.

17B:28-9. Investment of assets; eligibility; definition.

a. The assets held in a separate account, or any part thereof, may be invested in:

(i) Common stock or shares of any investment company specified in the contract or contracts participating in such separate account, and registered under the Investment Company Act of 1940, whether or not such stock or shares satisfy the dividend or earnings history

requirements now or hereafter contained in the provisions of this title that regulate investments by domestic insurers; provided that at the time of the first purchase of such stock or shares of any such investment company, the insurer which maintains such account, or a subsidiary or affiliate of such insurer, shall be the investment manager or investment adviser of such investment company and, as long as such insurer which maintains such account, or any subsidiary or affiliate of such insurer, shall continue as such investment manager or investment adviser, the investments acquired by such investment company shall be such as would be eligible for investment of separate account assets by domestic insurers under the provisions of this section excluding this paragraph (i);

(ii) Other investments made eligible for investment by domestic insurers by the provisions of this title that regulate investments by domestic insurers, except for investments made eligible by the provision of chapter 20 of this title which permits a domestic insurer to make loans or investments not otherwise expressly qualified or permitted up to 5% of total admitted assets, as such provision may be amended from time to time, or any similar or superseding provision corresponding in substance thereto;

(iii) Investments authorized, specifically or by classes or otherwise, by the commissioner as appropriate to the nature and purpose of such separate account; and

(iv) Investments not otherwise eligible under the preceding clauses of this subsection, provided that at the time of making any such investment, and immediately after giving effect thereto, the aggregate cost of all investments held in such separate account pursuant to this paragraph (iv) shall not exceed 5% of the aggregate market value of the assets held in such separate account; provided that (A) any common stock or shares, other than common stock or shares referred to in paragraph (i) of this subsection issued by an open-end investment company, shall be (1) common stock or shares which are listed or admitted to trading on a securities exchange in the United States of America or Canada, or (2) common stock or shares which are included on the National Association of Securities Dealers' national price listings of "over-the-counter" securities, or (3) other common stock or shares which the commissioner shall have determined are publicly held and traded and as to which market quotations shall be available; (B) the quantitative investment limitations now or hereafter contained in this title regulating investments by domestic insurers shall not be applicable to invest-

ments for separate account, subject to the qualification that the provision contained in this title limiting the percentage of voting stock of any one corporation that may be purchased or acquired by a domestic insurer, as such provision may be amended from time to time, or any similar or superseding provision corresponding in substance thereto, shall apply (subject to the provisions of N.J.S.17B:20-3 as such provisions may be amended from time to time, or any similar or superseding provisions corresponding in substance thereto), with respect to the aggregate of the voting stock of any one corporation held in all accounts of such insurer, except for all such stock that may be voted at the direction of a person or persons, other than such insurer or any subsidiary or affiliate of such insurer; and provided further that, subject to the next succeeding paragraph of this subsection, no domestic insurer shall purchase for any separate account any security (other than common stock or shares referred to in paragraph (i) of this subsection issued by an open-end investment company) of any corporation, if after such purchase more than 10% of the market value of the assets of such separate account would be invested in the securities of such corporation.

(v) Notwithstanding the foregoing provisions of this section or any other provision of law, a domestic insurer may invest the assets, or any part thereof, held in a separate account established and maintained solely for one or more group contracts in any investment or investments authorized by the contract or contracts participating in such account, subject only to subparagraph (B) of paragraph (iv) of this subsection relating to the percentage of voting stock of any one corporation that may be purchased or acquired. For the purpose of this paragraph, a group contract shall not include, (1) a contract which provides benefits to individuals based upon the investment results of such an account unless such contract implements a plan (a) which covers at least 100 individuals at the time of execution of such contract and (b) under which, if the crediting to such an account of the contributions made by any individual would affect his benefits under the plan, no portion of his contributions in excess of 50% is so credited, unless he is offered an alternative to having such portion so credited or, (2) except with the consent of the commissioner, a contract the holder of which is an association of individuals or the representative thereof.

Except as otherwise provided in this subsection, the investments held in the separate accounts of any domestic insurer shall be disregarded in determining whether the other investments of such in-

surer comply with the provisions of this title that regulate investments by domestic insurers as such provisions may be amended from time to time, or any similar or superseding provisions corresponding in substance thereto.

b. Notwithstanding any other provision of law, a domestic insurer may, with respect to any separate account or any portion thereof

(i) Exercise any voting rights of any stock or shares in accordance with instructions from the person or persons specified in, or designated pursuant to, the contract or contracts participating in such account, or

(ii) Establish a committee for such account, the members of which may be directors or officers or other employees of such insurer, or persons having no such relationship to such insurer, or any combination thereof, who may be elected to such membership by the vote of the persons having the beneficial interests in such account ratably according to their respective interests in such account or in such other manner as the insurer shall deem appropriate. Such committee may have the power, which may be exercisable alone or in conjunction with others, or which may be delegated to such insurer or any other person, as investment manager or investment adviser, to authorize purchases and sales of investments for such account and to take such other action with respect to account investments as it shall deem appropriate, provided that as long as such insurer or any subsidiary or affiliate of such insurer shall be the investment manager or investment adviser of such account, the investments of such account shall be eligible under the provisions of subsection a. of this section. Such insurer may establish such a committee for only a portion of a separate account, and its members may be similarly elected. Any such committee for only a portion of a separate account may be given the further power to require the subdivision of such account into two accounts so that the portion with respect to which such committee shall be acting shall constitute a separate account. If such committee shall so require, the insurer shall segregate from the account being so subdivided a portion of the assets held with respect to the reserve liabilities of such account. Such portion shall be in the same proportion to the total of such asset as the reserve liability for the portion of the account with respect to which such committee is acting bears to the total reserve liability of such account; and notwithstanding any other provision of law, the assets so segregated shall be transferred to a separate account with respect to which such committee shall act.

c. The investments held in a separate account and the liabilities chargeable against it shall at all times be clearly identifiable and distinguishable from the other investments and liabilities of the insurer. To the extent provided in the applicable contract or contracts, assets held in a separate account shall not be chargeable with liabilities arising out of any other business of the corporation.

No sale, transfer or exchange of investments may be made between a separate account and any other investment account of the insurer, except with the prior consent of the commissioner, and no investments held in a separate account, other than an account of the kind described in paragraph (v) of subsection a. of this section, shall be pledged or transferred as collateral for a loan.

d. The term "Investment Company Act of 1940" as used in this section shall mean an Act of Congress approved August 22, 1940 entitled "Investment Company Act of 1940" as amended from time to time, or any similar statute enacted in substitution therefor.

6. This act shall take effect immediately.

Approved January 4, 1990.

CHAPTER 268

AN ACT establishing a uniform coding system for plastic bottles and containers, and supplementing P.L.1987, c.102 (C.13:1E-99.11 et al.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.13:1E-99.40 Definitions.

1. As used in this act:

"Beverage" means milk, alcoholic beverages, including beer or other malt beverages, liquor, wine, vermouth and sparkling wine, and nonalcoholic beverages, including fruit juice, mineral water and soda water and similar nonalcoholic carbonated and noncarbonated drinks intended for human consumption;

"Beverage container" means an individual, separate, hermetically sealed, or made airtight with a metal or plastic cap, bottle or can composed of glass, metal, plastic or any combination thereof, containing a beverage;

“Commissioner” means the Commissioner of Environmental Protection;

“Department” means the Department of Environmental Protection;

“Plastic bottle” means any plastic beverage container having a capacity of at least 16 fluid ounces but less than 5 United States gallons, and composed of thermoplastic synthetic polymeric material;

“Plastic container” means any formed or molded and hermetically sealed, or made airtight with a metal or plastic cap, rigid container, other than a plastic bottle, intended for single-use and having a capacity of at least 8 ounces but less than 5 United States gallons with a minimum wall thickness of not less than 0.010 inches, and composed primarily of thermoplastic synthetic polymeric material.

C.13:1E-99.41 Material code labels on bottles, containers; required.

2. a. On or after January 1, 1991, no person shall sell, offer for sale, or distribute any plastic bottle or plastic container in this State unless the bottle or container is labeled with a material code indicating the plastic resin used to produce the bottle or container. Any plastic bottle or plastic container with a label or basecup affixed thereto, the composition of which consists of a different material than the bottle or container itself, shall be coded by its basic material.

b. The material code shall consist of a uniform symbol and identification number, and an acronym comprising no more than five letters. The symbol shall consist of a triangular-shaped configuration of three arrows with a specific number placed within the center of the symbol to indicate the composition of the material used to produce the bottle or container. The acronym shall be placed below the triangle of arrows. The triangle shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number.

c. The material code shall consist of an identification number and acronym as follows:

- (1) Polyethylene terephthalate: “1” and “PETE”;

- (2) High density polyethylene: "2" and "HDPE";
- (3) Vinyl: "3" and "V";
- (4) Low density polyethylene: "4" and "LDPE";
- (5) Polypropylene: "5" and "PP";
- (6) Polystyrene: "6" and "PS"; and
- (7) All other plastic resins and laminates: "7" and "OTHER".

d. The commissioner shall maintain on file in the department for public inspection copies of the material code provided in subsection c. of this section. The department shall provide a copy to any person upon request.

C.13:1E-99.42 Violations, penalties.

3. a. Any person convicted of a violation of this act shall be subject to a penalty of not less than \$500.00 nor more than \$1,000.00 for each offense, to be collected in a civil action by a summary proceeding under "the penalty enforcement law," (N.J.S.2A:58-1 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this act. If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate, and distinct offense.

b. The department may institute a civil action for injunctive relief to enforce this act and to prohibit and prevent a violation of this act, and the court may proceed in the action in a summary manner.

C.13:1E-99.43 Rules, regulations.

4. The commissioner shall adopt, within one year of the effective date of this act and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this act.

5. This act shall take effect immediately.

Approved January 4, 1990.

CHAPTER 269

AN ACT concerning collective bargaining and public school employees and supplementing P.L.1941, c.100 (C.34:13A-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.34:13A-22 Definitions.

1. As used in this act:

“Commission” means the New Jersey Public Employment Relations Commission.

“Commissioner” means the Commissioner of Education.

“Discipline” includes all forms of discipline, except tenure charges filed pursuant to the provisions of subsubarticle 2 of subarticle B of Article 2 of chapter 6 of Subtitle 3 of Title 18A of the New Jersey Statutes, N.J.S.18A:6-10 et seq., or the withholding of increments pursuant to N.J.S.18A:29-14.

“Employees” means employees of an employer as defined by this act.

“Employer” means any local or regional school district, educational services commission, jointure commission, county special services school district, or board or commission under the authority of the commissioner or the State Board of Education.

“Extracurricular activities” include those activities or assignments not specified as part of the teaching and duty assignments scheduled in the regular work day, work week, or work year.

“Minor discipline” includes, but is not limited to, various forms of fines and suspensions, but does not include tenure charges filed pursuant to the provisions of subsubarticle 2 of subarticle B of Article 2 of chapter 6 of Subtitle 3 of Title 18A of the New Jersey Statutes, N.J.S.18A:6-10 et seq., or the withholding of increments pursuant to N.J.S.18A:29-14, letters of reprimand, or suspensions with pay pursuant to section 1 of P.L.1971, c.435 (C.18A:6-8.3) and N.J.S.18A:25-6.

“Regular work day, work week, or work year” means that period of time that all members of the bargaining unit are required to be present and at work.

“Teaching staff member” means a member of the professional staff of any employer holding office, position or employment of such character that the qualifications, for the office, position or employment, require him to hold a valid and effective standard, provisional or emergency certificate, appropriate to that office, position or employment, issued by the State Board of Examiners. “Teaching staff member” includes a school nurse.

C.34:13A-23 Assignment to extracurricular activities; subject to collective negotiations.

2. All aspects of assignment to, retention in, dismissal from, and any terms and conditions of employment concerning extracurricular activities shall be deemed mandatory subjects for collective negotiations between an employer and the majority representative of the employees in a collective bargaining unit, except that the establishment of qualifications for such positions shall not constitute a mandatory subject for negotiations. If the negotiated selection procedures fail to produce a qualified candidate from within the district the employer may employ from outside the district any qualified person who holds an appropriate New Jersey teaching certificate. If the employer is unable to employ a qualified person from outside of the district, the employer may assign a qualified teaching staff member from within the district.

C.34:13A-24 Imposition of minor discipline.

3. a. Notwithstanding any other law to the contrary, and if negotiated with the majority representative of the employees in the appropriate collective bargaining unit, an employer shall have the authority to impose minor discipline on employees. Nothing contained herein shall limit the authority of the employer to impose, in the absence of a negotiated agreement regarding minor discipline, any disciplinary sanction which is authorized and not prohibited by law.

b. The scope of such negotiations shall include a schedule setting forth the acts and omissions for which minor discipline may be imposed, and also the penalty to be imposed for any act or omission warranting imposition of minor discipline.

c. Fines and suspensions for minor discipline shall not constitute a reduction in compensation pursuant to the provisions of N.J.S.18A:6-10.

C.34:13A-25 Transfer of employees.

4. Transfers of employees by employers between work sites shall

not be mandatorily negotiable except that no employer shall transfer an employee for disciplinary reasons.

C.34:13A-26 Withholding increment for disciplinary reasons.

5. Disputes involving the withholding of an employee's increment by an employer for predominately disciplinary reasons shall be subject to the grievance procedures established pursuant to law and shall be subject to the provisions of section 8 of this act.

C.34:13A-27 Resolution of disputes.

6. a. If there is a dispute as to whether a transfer of an employee between work sites or withholding of an increment of a teaching staff member is disciplinary, the commission shall determine whether the basis for the transfer or withholding is predominately disciplinary.

b. If the commission determines that the basis for a transfer is predominately disciplinary, the commission shall have the authority to take reasonable action to effectuate the purposes of this act.

c. If the commission determines that the basis for an increment withholding is predominately disciplinary, the dispute shall be resolved through the grievance procedures established pursuant to law and shall be subject to the provisions of section 8 of this act.

d. If a dispute involving the reason for the withholding of a teaching staff member's increment is submitted to the commission pursuant to subsection a. of this section, and the commission determines that the reason for the increment withholding relates predominately to the evaluation of a teaching staff member's teaching performance, the teaching staff member may file a petition of appeal pursuant to N.J.S.18A:6-9 and N.J.S.18A:29-14, and the petition shall be deemed to be timely if filed within 90 days of notice of the commission's decision, or of the final judicial decision in any appeal from the decision of the commission, whichever date is later.

C.34:13A-28 Additional rights.

7. Nothing in this act shall be deemed to restrict or limit any right established or provided by section 7 of P.L.1968, c.303 (C.34:13A-5.3); this act shall be construed as providing additional rights in addition to and supplementing the rights provided by that section.

C.34:13A-29 Grievance procedures; binding arbitration.

8. a. The grievance procedures that employers covered by this act are required to negotiate pursuant to section 7 of P.L.1968, c.303 (C.34:13A-5.3) shall be deemed to require binding arbitration as the

terminal step with respect to disputes concerning imposition of reprimands and discipline as that term is defined in this act.

b. In any grievance procedure negotiated pursuant to this act, the burden of proof shall be on the employer covered by this act seeking to impose discipline as that term is defined in this act.

9. This act shall take effect immediately and nothing in this act shall require the reopening of any negotiated agreement in existence at the time of enactment.

Approved January 4, 1990.

CHAPTER 270

AN ACT concerning financial assistance for adults with cystic fibrosis, supplementing Title 26 of the Revised Statutes, repealing P.L.1981, c.289 and making an appropriation therefor.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.26:20-1 Findings, declarations.

1. The Legislature finds and declares that:

a. It is estimated that about 5% of the population carries the cystic fibrosis gene, which currently cannot be detected by any test, and that the number of persons born with cystic fibrosis who are living to adulthood is increasing;

b. The New Jersey State Organization of Cystic Fibrosis has identified at least 60 adults with cystic fibrosis living in New Jersey; however, there are estimates of as many as 150 to 200;

c. These adults, who are afflicted with a chronic hereditary disorder that affects the lungs and digestive system and causes difficulty in breathing and an inability to digest foods, have special needs for nutritional and pharmaceutical assistance that have not been met by previous or existing State programs which serve children with cystic fibrosis;

d. The program of medical care and treatment established pursuant to P.L.1981, c.289 (C.26:2-118), which provided pharmaceutical assistance to adults with cystic fibrosis became inoperative because of a lack of funding and was limited in its effectiveness

because many potential service recipients were unaware of the program due to a lack of publicity;

e. The State should meet the special needs of adults with cystic fibrosis by helping them to purchase the supplemental foods that they need and the drugs and medical supplies and equipment that they require; and

f. A Statewide nutritional and pharmaceutical assistance program for adults with cystic fibrosis will enable these persons to stay in the workforce and continue to be productive members of the community.

C.26:20-2 Program of financial assistance to persons with cystic fibrosis.

2. The Commissioner of Health shall establish a program of financial assistance for persons with cystic fibrosis to meet the expenses of: supplemental, nutritious foods; prescription drugs and medical supplies and equipment that are necessary for the treatment of cystic fibrosis; and certain health insurance costs.

The commissioner shall contract with a nonprofit organization in New Jersey which has experience in providing financial assistance and direct services to persons with cystic fibrosis, to administer the program.

C.26:20-3 Eligibility for financial assistance.

3. a. A person with cystic fibrosis is eligible for assistance under this act for the purchase of supplemental, nutritious foods and prescription drugs and medical supplies and equipment that are necessary for the treatment of cystic fibrosis, if the person is 18 years of age or older and (1) the person's annual income is less than \$25,000; or (2) the person's annual income is \$25,000 or greater, but the person has incurred, within the last 12 months, prescription drug and medical supplies and equipment costs related to the treatment of cystic fibrosis, the total cost of which, when deducted from the person's income, reduces the person's income to under \$25,000.

b. A person with cystic fibrosis who is 18 years of age or older who has health insurance is eligible for financial assistance under this act of up to \$500 per year to help meet the cost of the deductible on the insurance policy. This financial assistance may be provided in addition to assistance for the purchase of supplemental, nutritious foods and pharmaceutical drugs and medical supplies and equipment and shall be provided without consideration of the person's annual income.

C.26:20-4 Rules, regulations.

4. The Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

Repealer.

5. P.L.1981, c.289 (C.26:2-118) is repealed.

6. There is appropriated \$600,000 from the General Fund to the Department of Health to carry out the purposes of this act, of which sum no more than \$37,500 shall be used for administrative purposes.

7. This act shall take effect immediately.

Approved January 8, 1990.

CHAPTER 271

AN ACT concerning the payment of health insurance premiums for dependents of certain law enforcement officers and firefighters killed in the line of duty and amending P.L.1944, c.255 and P.L.1965, c.89.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 10 of P.L.1944, c.255 (C.43:16A-10) is amended to read as follows:

C.43:16A-10 Accidental death benefits.

10. (1) Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place, and such death was not the result of the member's willful negligence, an accidental death benefit shall be payable if a report of the accident is filed in the office of the retirement system within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action. No such application shall be valid or acted upon unless it is filed in the office of the retirement system within five years of the date of such death.

(2) Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to his widow or dependent widower a pension of 70%

of the compensation, upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, for the use of herself or himself and the children of the deceased member, to continue during her or his widowhood; if there is no surviving widow or dependent widower or in case the widow or dependent widower dies or remarries, 20% of such compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation will be payable to such children in equal shares.

If there is no surviving widow, dependent widower or child, 25% of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, will be payable to one surviving dependent parent or 40% of such compensation will be payable to two surviving parents in equal shares.

In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

(3) If there is no surviving widow, dependent widower, child or dependent parent, there shall be paid to any other beneficiary of the deceased member, his aggregate contributions at the time of death.

(4) In no case shall the death benefit provided in subsection (2) be less than that provided under subsection (3).

(5) In addition to the foregoing benefits payable under subsection (2) or (3), there shall also be paid in one sum to such beneficiary, if living, as the member shall have nominated by written designation duly executed and filed with the retirement system, otherwise to the executor or administrator of the member's estate, an amount equal to $3\frac{1}{2}$ times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

(6) In addition to the foregoing benefits, the State shall pay to the member's employer-sponsored health insurance program all health insurance premiums for the coverage of the member's surviving widow or dependent widower and dependent children.

2. Section 14 of P.L.1965, c.89 (C.53:5A-14) is amended to read as follows:

C.53:5A-14 Accidental death benefits; designation of beneficiary; payment of health insurance premiums.

14. a. Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place, and such death was not the result of the member's willful negligence, an accidental death benefit shall be payable if a report of the accident is filed in the office of the Division of State Police within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action. No such application shall be valid or acted upon unless it is filed in the office of the retirement system within five years of the date of such death.

b. Upon the receipt of proper proofs of the death of a member on account of which accidental death benefit is payable, there shall be paid to the surviving spouse a pension of 50% of final compensation for the use of that spouse and children of the deceased, to continue for so long as the person qualifies as a "surviving spouse" for the purposes of this act; if there is no surviving spouse or in case the spouse dies or remarries, 20% of final compensation will be payable to one surviving child, 35% of final compensation to two surviving children in equal shares and if there be three or more children, 50% of final compensation will be payable to such children in equal shares.

If there is no surviving spouse or child, 25% of final compensation will be payable to one surviving parent or 40% of final compensation will be payable to two surviving parents in equal shares.

In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

c. If there is no surviving spouse, child or parent, there shall be paid to any other beneficiary of the deceased member, his aggregate contributions at the time of death.

d. In no case shall the death benefits provided in subsection b. be less than that provided under subsection c.

e. In addition to the foregoing benefits payable under subsection a. or b., there shall also be paid in one sum to the member's beneficiary, an amount equal to 3½ times final compensation.

f. (Deleted by amendment.)

g. (Deleted by amendment.)

h. In addition to the foregoing benefits, the State shall pay to the member's employer-sponsored health insurance program all health insurance premiums for the coverage of the member's surviving spouse and surviving children.

3. This act shall take effect immediately and shall apply to the payment of health insurance premiums of the surviving spouse and children of any member on whose behalf an accidental death benefit is payable pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10) or section 14 of P.L.1965, c.89 (C.53:5A-14).

Approved January 8, 1990.

CHAPTER 272

AN ACT concerning pension benefits in the Teachers' Pension and Annuity Fund and supplementing chapter 66 of Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.18A:66-47.2 Election of death benefit or retirement allowance.

1. Notwithstanding any other law to the contrary, the beneficiary of a member who has more than 37 years of service credit and who dies on or after the 24th day after filing an application for retirement and two days before the effective date of the retirement may elect to receive the death benefit payable to the member's beneficiary if the member had died in active service or the retirement allowance elected by the member and payable to the beneficiary pursuant to section 18A:66-47.

2. This act shall take effect immediately and shall be retroactive to November 1, 1988.

Approved January 8, 1990.

CHAPTER 273

AN ACT concerning certain liens held by auto body repair facilities and amending P.L.1987, c.280.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1987, c.280 (C.39:13-8) is amended to read as follows:

C.39:13-8 Damage repairs reimbursable under insurance policy by negotiable instrument payable to insured and lienholder or lessor; statement and photograph as proof; inspection.

1. a. When a motor vehicle is repaired by an auto body repair facility as a result of damage to the vehicle and (1) the damage is reimbursable under a policy of insurance under physical damage coverage, property damage coverage, or comprehensive coverage; and (2) the proceeds of the reimbursement are in the form of a negotiable instrument issued by an insurer which is payable jointly to the insured and a lienholder or lessor, the auto body repair facility shall provide the lienholder or lessor with a statement of the repairs which have been made to the vehicle, which statement shall be attested by an authorized representative of the auto body repair facility. The statement shall constitute proof to the lienholder or lessor that all repairs have been made by an auto body repair facility. A color photograph of the repaired vehicle shall accompany the statement.

b. In the event that any lienholder or lessor should wish to inspect any motor vehicle to which repairs have been made as provided in subsection a. of this section, the lienholder or lessor shall conduct the inspection upon the premises of the auto body repair facility within seven business days after receipt of the notice by certified mail that the repair has been completed. If an inspection is not made by a lienholder or lessor within the seven-day period provided herein, the lienholder or lessor shall forfeit the right to make an inspection.

c. In the event a lienholder or lessor shall sell any motor vehicle to which repairs have been made as provided in subsection a. of this section prior to the payment or reimbursement of the auto body repair facility which repaired that motor vehicle, except for the amounts due that lienholder or lessor under the provisions of a perfected lien or security interest, the amount due the auto body repair facility for those repairs shall supersede and have priority over all other liens or outstanding interests, including those payable by an insurer to the person who insured the repaired motor vehicle. In such

cases, if the insurer has received a statement and request demanding payment from the auto body repair facility, the proceeds, or portion thereof, shall be directed by the insurer to that auto body repair facility.

d. No lienholder or lessor shall deduct any amount from the aggregate proceeds of a negotiable instrument that was issued by an insurer to reimburse an auto body repair facility which, pursuant to the provisions of subsection a. of this section, repaired a damaged motor vehicle, but which is payable jointly to the insured and the lienholder or lessor, for the purpose of paying any delinquent amounts or outstanding installments that the insured may owe to the lienholder or lessor for the motor vehicle that has been repaired, nor shall any lienholder or lessor unreasonably withhold the endorsement of such instrument or, following endorsement, refuse to transmit the endorsed instrument to the insured.

For the purposes of this act, "auto body repair facility" shall mean an auto body repair facility as defined in section 1 of P.L.1983, c.360 (C.39:13-1).

2. This act shall take effect immediately.

Approved January 8, 1990.

CHAPTER 274

AN ACT concerning the low voltage control wiring of landscape irrigation systems and amending P.L.1962, c.162 and P.L.1985, c.289.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 18 of P.L.1962, c.162 (C.45:5A-18) is amended to read as follows:

C.45:5A-18 Exempt work or construction.

18. Electrical work or construction which is performed on the following facilities or which is by or for the following agencies shall not be included within the business of electrical contracting so as to require the securing of a business permit under this act:

(a) Minor repair work such as the replacement of lamps and fuses.

(b) The connection of portable electrical appliances to suitable permanently installed receptacles.

(c) The testing, servicing or repairing of electrical equipment or apparatus.

(d) Electrical work in mines, on ships, railway cars, elevators, escalators or automotive equipment.

(e) Municipal plants or any public utility as defined in R.S.48:2-13, organized for the purpose of constructing, maintaining and operating works for the generation, supplying, transmission and distribution of electricity for electric light, heat, or power.

(f) A public utility subject to regulation, supervision or control by a federal regulatory body, or a public utility operating under the authority granted by the State of New Jersey, and engaged in the furnishing of communication or signal service, or both, to a public utility, or to the public, as an integral part of a communication or signal system, and any agency associated or affiliated with any public utility and engaged in research and development in the communications field.

(g) A railway utility in the exercise of its functions as a utility and located in or on buildings or premises used exclusively by such an agency.

(h) Commercial radio and television transmission equipment.

(i) Construction by any branch of the federal government.

(j) Any work with a potential of less than 10 volts.

(k) Repair, manufacturing and maintenance work on premises occupied by a firm or corporation, and installation work on premises occupied by a firm or corporation and performed by a regular employee who is a qualified journeyman electrician.

(l) Installation, repair or maintenance performed by regular employees of the State or of a municipality, county, or school district on the premises or property owned or occupied by the State, a municipality, county, or school district.

(m) The maintaining, installing or connecting of automatic oil, gas or coal burning equipment, gasoline or diesel oil dispensing equipment and the lighting in connection therewith to a supply of adequate size at the load side of the distribution board.

(n) Work performed by a person on a dwelling that is occupied

solely as a residence for himself or for a member or members of his immediate family.

(o) Any work performed by an alarm business with a potential of not more than 30 volts, involving the installation, servicing, or maintenance of a burglar alarm or a fire alarm, as those terms are defined by section 2 of this amendatory and supplementary act. Nothing herein shall be deemed to exempt work covered by this subsection from inspection required by the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or regulations adopted pursuant thereto.

(p) Any work performed by a landscape irrigation contractor which has the potential of not more than 30 volts involving the installation, servicing, or maintenance of a landscape irrigation system as this term is defined by section 2 of this amendatory and supplementary act. Nothing in this act shall be deemed to exempt work covered by this subsection from inspection required by the "State Uniform Construction Code Act", P.L.1975, c.217 (C.52:27D-119 et seq.) or regulations adopted pursuant thereto.

The board may also exempt from the business permit provisions of this act such other electrical activities of like character which in the board's opinion warrant exclusion from the provisions of this act.

2. Section 2 of P.L.1985, c.289 (C.45:5A-18.1) is amended to read as follows:

C.45:5A-18.1 Definitions.

2. As used in this amendatory and supplementary act:

a. "Alarm business" means a partnership, corporation or other business entity engaged in the installation, servicing or maintenance of burglar or fire alarm systems, or the monitoring or responding to alarm signals when provided in conjunction therewith. "Installation" includes the survey of a premises, the design and preparation of the specifications for the equipment or system to be installed pursuant to a survey, the installation of the equipment or system, or the demonstration of the equipment or system after the installation is completed, but does not include any survey, design or preparation of specifications for equipment or for a system which is prepared by an engineer licensed pursuant to the provisions of P.L.1938, c.342 (C.45:8-27 et seq.), or an architect licensed pursuant to the provisions of R.S.45:3-1 et seq., if the survey, design, or preparation of specifications is part of a design for construction of a new building or premises or a renovation of an existing building or premises, which

renovation includes components other than the installation of a burglar or fire alarm system.

b. "Burglar alarm" means a security system comprised of an interconnected series of alarm devices or components, including systems interconnected with radio frequency signals, which emits an audible, visual or electronic signal indicating an alarm condition and providing a warning of intrusion, which is designed to discourage crime.

c. "Fire alarm" means a security system comprised of an interconnected series of alarm devices or components, including systems interconnected with radio frequency signals, which emits an audible, visual or electronic signal indicating an alarm condition and provides a warning of the presence of smoke or fire; except that "fire alarm" does not mean a system whose primary purpose is telecommunications with energy control, the monitoring of the interior environment being an incidental feature thereto.

d. "Landscape irrigation contractor" means a person engaged in the installation, servicing, or maintenance of a landscape irrigation system.

e. "Landscape irrigation system" means any assemblage of components, materials or special equipment which is designed, constructed and installed for controlled dispersion of water from any safe suitable source, including properly treated wastewater, for the purpose of irrigating landscape vegetation or the control of dust and erosion on landscape areas, including integral pumping systems or integral control systems for the manual, semiautomatic, or automatic control of the operation of these systems.

3. This act shall take effect immediately.

Approved January 8, 1990.

CHAPTER 275

AN ACT concerning the practice of architecture, supplementing chapter 3 of Title 45 of the Revised Statutes and amending P.L.1952, c.131 and R.S.45:3-10.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.45:3-1.1 Definitions.

1. For the purposes of this act:

a. "Aesthetic principles" means the concepts of order, balance, proportion, scale, rhythm, color, texture, mass and form as used in the design process.

b. "Architect" means an individual who through education, training, and experience is skilled in the art and science of building design and has been licensed by the New Jersey State Board of Architects to practice architecture in the State of New Jersey.

c. "Architecture" means the art and science of building design and particularly the design of any structure for human use or habitation. Architecture, further, is the art of applying human values and aesthetic principles to the science and technology of building methods, materials and engineering systems, required to comprise a total building project with a coherent and comprehensive unity of structure and site.

d. "Board" means the New Jersey State Board of Architects.

e. "Certificate of authorization" means a certificate issued by the board pursuant to this amendatory and supplementary act.

f. "Closely allied professional" means and is limited to licensed architects, professional engineers, land surveyors, and professional planners.

g. "Engineering systems" means those systems necessary for the proper function of a building and the surrounding site, the proper design of which requires engineering knowledge acquired through engineering or architectural education, training, or experience. These systems include but are not limited to structural, electrical, heating, lighting, acoustical, ventilation, air conditioning, grading, plumbing, and drainage. Drainage facilities for sites of 10 acres or more or involving stormwater detention facilities or traversed by a water course shall only be designed by a professional engineer.

h. "Joint committee" means the Joint Committee of Architects and Engineers established pursuant to the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.).

i. "Human use or habitation" means the activities of living, including, but not limited to fulfilling domestic, religious, educational, recreational, employment, assembly, health care, institutional, memorial, financial, commercial, industrial and governmental needs.

j. "Human values" means the social, cultural, historical, economic and environmental influences that have an impact on the quality of life.

k. "Practice of architecture" or "architectural services" means the rendering of services in connection with the design, construction, enlargement, or alteration of a building or a group of buildings and the space within or surrounding those buildings, which have as their principal purpose human use or habitation. These services include site planning, providing preliminary studies, architectural designs, drawings, specifications, other technical documentation, and administration of construction for the purpose of determining compliance with drawings and specifications.

l. "Responsible charge" means the rendering of regular and effective supervision by a competent licensed architect to those individuals performing services which directly and materially affect the quality and competence of architectural services rendered by the licensee. A licensee engaged in any of the following acts or practices shall be deemed not to have rendered regular and effective supervision:

(1) The regular and continuous absence from principal office premises from which professional services are rendered, except for performance of field work or presence in a field office maintained exclusively for a specific project;

(2) The failure to personally inspect or review the work of subordinates where necessary and appropriate;

(3) The rendering of a limited, cursory or perfunctory review of plans for a building or structure in lieu of an appropriate detailed review;

(4) The failure to personally be available on a reasonable basis or with adequate advance notice for consultation and inspection where circumstances require personal availability.

2. Section 1 of P.L.1952, c.131 (C.45:3-5.1) is amended to read as follows:

C.45:3-5.1 Licensed professional engineers may be licensed as architects; examination.

1. Any professional engineer who is duly licensed to practice professional engineering in this State, provided that he has a college degree in an engineering program or curriculum of four years or more, shall be entitled to be licensed to engage in the practice of architecture in this State, upon application therefor to the board and upon satisfactorily passing the parts pertaining to site and building design of the examination regularly conducted by the board pursuant to R.S.45:3-5 for applicants for registration to practice architecture.

3. R.S.45:3-10 is amended to read as follows:

Illegal practice of architecture; what constitutes; penalty; additional offenses; exceptions.

45:3-10. No person except an architect licensed in the State of New Jersey shall engage in the practice of architecture, use the title "architect" or its substantial equivalent or otherwise represent to the public that that person is licensed to practice architecture in this State.

Any single act or transaction shall constitute engaging in business or in the practice of architecture within the meaning of this chapter.

Nothing herein contained shall prohibit students or employees of licensed architects from acting upon the authority of such licensed architects, whose certificates have not been revoked, suspended or forfeited, where said students or employees are under the immediate supervision of such licensed architect, or to prohibit any person in this State from acting as designer of a dwelling and all appurtenances thereto that are to be constructed by himself solely as a residence for himself or for a member or members of his immediate family.

No licensed architect shall permit his name to be used in connection with the name of any other person not licensed to practice architecture in this State in any advertisement, sign, card or device in such a manner as to indicate that such other person is a licensed architect.

Nothing herein contained shall prohibit professional engineers from designing buildings consistent with section 7 of the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-7).

Nothing herein contained shall prohibit professional engineers from offering building design services consistent with section 7 or 8

of the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-7 or 45:4B-8).

C.45:3-17 Offering of architectural services; requirements.

4. Architectural services shall not be rendered or offered through any business associations other than a sole proprietorship of a licensed architect, a partnership of licensed architects, a partnership of closely allied professionals including at least one licensed architect, a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.), a corporation authorized pursuant to section 4 of this amendatory and supplementary act or as prescribed in the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.).

C.45:3-18 Certificate of authorization to offer architectural services.

5. The board shall issue a certificate of authorization to certain corporations and those corporations shall be authorized to offer architectural services as follows:

a. A corporation may offer to provide architectural services in this State if: (1) two-thirds (2/3) of the directors are licensed architects; and, (2) two-thirds (2/3) of the shares of stock are owned by licensed architects. This subsection shall not apply to a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.).

b. A corporation may offer to provide architectural and closely allied professional services in this State if: (1) at least two-thirds (2/3) of the directors are licensed architects and closely allied professionals; (2) at least one director is a licensed architect; (3) two-thirds (2/3) of the shares are owned by licensed architects or closely allied professionals; and, (4) a minimum of 20% of the shares are owned by licensed architects. This subsection shall not apply to a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.).

The certificate of authorization shall designate a New Jersey licensee or licensees who are in responsible charge of the architectural activities and decisions of the corporation. All final drawings, papers or documents involving the practice of architecture, when issued by the corporation or filed for public record, shall be signed and sealed by the New Jersey licensee who is in responsible charge of the work.

C.45:3-19 Application for certificate of authorization, renewal.

6. Prior to the issuance of a certificate of authorization, a corpo-

ration shall file with the board an application, on forms designated by the board, listing, where applicable, the name and address of the corporation and its satellite offices, and the name, address and signature of all officers, corporate board members, directors, principals and any licensees who shall be in responsible charge of the practice of architecture through the corporation, together with such other information as may be required by the board to ensure compliance with its regulations. The same information shall accompany the biennial renewal fee. A change in any of this information shall be reported to the board within 30 days after the effective date of that change.

C.45:3-20 Records maintained by licensee.

7. A licensee shall maintain such records as are reasonably necessary to establish that the licensee exercised regular and effective supervision of professional services of which such licensee was in responsible charge.

C.45:3-21 Rules, regulations.

8. The board shall have the authority to review the professional conduct of any corporation authorized to offer architectural services under the provisions of P.L.1989, c.275 (C.45:3-1.1 et al.). In order to implement those provisions, the board may:

a. Establish by regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) a biennial renewal fee for the certificate of authorization.

b. Suspend, revoke, or refuse to renew the certificate of authorization of any corporation whose agent, employees, directors or officers violate, or cause to be violated, any of the provisions of this amendatory and supplementary act or chapter 8 of Title 45 of the Revised Statutes, in conformance with the provisions of P.L.1978, c.73 (C.45:1-14 et seq.).

c. Adopt such rules and regulations as required to carry out the provisions of this amendatory and supplementary act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.45:3-22 Responsibility of corporation.

9. No corporation shall be relieved of responsibility for the conduct or acts of its agents, employees or officers by reason of compliance with the provisions of this amendatory and supplementary act.

C.45:3-23 Powers, duties of board.

10. Pursuant to the provisions of the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.) the board:

a. May refer any complaint, question or controversy, involving the application of that act to the joint committee.

b. Shall take no disciplinary action against any professional engineer alleged to have engaged in a violation of that act or the unlicensed practice of architecture.

c. Shall refer a request for a declaratory ruling to the joint committee.

d. Shall provide any and all documents in its possession regarding any matter referred to the joint committee.

e. Shall, where necessary and appropriate, exercise such investigation or enforcement power conferred by law to aid and assist the joint committee in its functions.

f. Shall, consistent with that act, discipline any licensed architect who, or business association authorized to offer architectural services which, violates that act. Such a violation shall be deemed professional misconduct. Any violation of that act by an unlicensed individual or unauthorized business association shall be disciplined by the New Jersey State Board of Architects pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of architecture. However, the design of an engineering work by an unlicensed individual or unauthorized business association shall be disciplined by the State Board of Professional Engineers and Land Surveyors pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of engineering.

11. This act shall take effect immediately but shall remain inoperative until 120 days following the enactment into law of P.L.1989, c.276 (C.45:8-56 et al.) and P.L.1989, c.277 (C.45:4B-1 et seq.).

Approved January 8, 1990.

CHAPTER 276

AN ACT concerning the practice of engineering and land surveying, amending P.L.1938, c.342 and P.L.1952, c.130, supplementing chapter 8 of Title 45 of the Revised Statutes and repealing section 18 of P.L.1938, c.342.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1938, c.342 (C.45:8-27) is amended to read as follows:

C.45:8-27 License required; display of license; exceptions; corporations, firms, partnerships and associations.

1. In order to safeguard life, health and property, and promote the public welfare, any person practicing or offering to practice professional engineering or professional land surveying in this State shall hereafter be required to submit evidence that he is qualified so to practice and shall be licensed as hereinafter provided. After the date upon which this chapter becomes effective, it shall be unlawful for any person to practice or to offer to practice engineering or land surveying in this State, or to use the title professional engineer or land surveyor or any other title, sign, card or device in such manner as to tend to convey the impression that such person is practicing engineering or land surveying or is a professional engineer or land surveyor, unless such person is duly licensed under the provisions of this chapter. Every holder of a license shall display it in a conspicuous place in his principal office, place of business or employment.

No corporation, firm, partnership or association shall be granted a license under this chapter; however, certain corporations shall be required to obtain a certificate of authorization as provided pursuant to P.L.1989, c.276 (C.45:8-56 et al.). No corporation, firm, partnership or association shall use or assume a name involving the word "engineers" or "engineering" or any modification or derivative of such terms, unless an executive officer, if a corporation, or a member, if a firm, partnership or association, shall be a licensed professional engineer of the State of New Jersey.

No corporation, firm, partnership or association shall use or assume a name involving the words "surveyors," "land surveyors," "surveying," or "land surveying," or any modification or derivative of such terms, unless an executive officer, if a corporation, or a member, if a firm, partnership, or association, shall be a licensed land surveyor of the State of New Jersey.

No corporation, firm, partnership or association shall practice or offer to practice engineering or land surveying in this State unless the person or persons in responsible charge of engineering or land surveying work shall be so licensed to practice in this State. The person or persons carrying on the actual practice of professional engineering or land surveying on behalf of or designated as "engineers" or "surveyors" or "professional engineers" or "land surveyors," with or without qualifying or characterizing words, by any such corporations, firms, partnerships or associations, shall be licensed to practice professional engineering or land surveying as provided in this chapter.

Services constituting the practice of professional engineering shall not be rendered or offered through any business association other than a sole proprietorship of a professional engineer, a partnership of professional engineers, a partnership of closely allied professionals including at least one professional engineer, a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.) or a corporation authorized pursuant to P.L.1989, c.276 (C.45:8-56 et al.).

Services constituting the practice of land surveying shall not be rendered or offered through any business association other than a sole proprietorship of a land surveyor, a partnership of land surveyors, a partnership of closely allied professionals including at least one land surveyor, a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.) or a corporation authorized pursuant to P.L.1989, c.276 (C.45:8-56 et al.).

Nothing in this act shall be construed as required licensing for the purpose of practicing professional engineering or land surveying by any person, firm, or corporation upon property owned or leased by such person, firm or corporation, unless the same involves the public safety, public health or public welfare.

2. Section 2 of P.L.1938, c.342 (C.45:8-28) is amended to read as follows:

C.45:8-28 Definitions.

2. (a) The term "professional engineer" within the meaning and intent of this chapter shall mean a person who by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to prac-

tice engineering as hereinafter defined as attested by his license as a professional engineer.

(b) The terms "practice of engineering" or "professional engineering" within the meaning and intent of this chapter shall mean any service or creative work the adequate performance of which requires engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of land and water, engineering studies, and the administration of construction for the purpose of determining compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any engineering project including: utilities, structures, buildings, machines, equipment, processes, work systems, projects, telecommunications, or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. The design of buildings by professional engineers shall be consistent with section 7 of the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-7).

The practice of professional engineering shall not include the work ordinarily performed by persons who operate or maintain machinery or equipment. The provisions of this chapter shall not be construed to prevent or affect the employment of architects in connection with engineering projects within the scope of the act to regulate the practice of architecture and all the amendments and supplements thereto.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer, or through the use of some other title utilizing or including the word engineer, implies that he is a professional engineer; or who represents himself as able to perform, or who does perform any engineering service or work or any other professional service recognized by the board as professional engineering.

Nothing herein shall prohibit licensed architects from providing or

offering services consistent with the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.).

(c) The term "engineer-in-training" as used in this chapter shall mean a person who is a potential candidate for license as a professional engineer who is a graduate in an approved engineering curriculum of four years or more from a school or college accredited by the board as of satisfactory standing, and who, in addition, has successfully passed an examination in the fundamental engineering subjects, as defined elsewhere herein.

(d) The term "land surveyor" as used in this chapter shall mean a person who engages in the practice of land surveying as hereinafter defined.

(e) The practice of land surveying within the meaning and intent of this chapter includes surveying of areas for their correct determination and description and for conveyancing, and for the establishment or reestablishment of land boundaries and the plotting of lands and subdivisions thereof, and such topographical survey and land development as is incidental to the land survey.

(f) The term "board" as used in this chapter shall mean the State Board of Professional Engineers and Land Surveyors.

(g) The term "responsible charge" as used in this chapter shall mean the rendering of regular and effective supervision by a competent professional engineer to those individuals performing services which directly and materially affect the quality and competence of engineering services rendered by the licensee. A licensee engaged in any of the following acts or practices shall be deemed not to have rendered regular and effective supervision:

(1) The regular and continuous absence from principal office premises from which professional services are rendered, except for performance of field work or presence in a field office maintained exclusively for a specific project;

(2) The failure to personally inspect or review the work of subordinates where necessary and appropriate;

(3) The rendering of a limited, cursory or perfunctory review of plans or projects in lieu of an appropriate detailed review;

(4) The failure to personally be available on a reasonable basis or with adequate advance notice for consultation and inspection where circumstances require personal availability.

(h) The term "certificate of authorization" shall mean a certificate issued by the board pursuant to this amendatory and supplementary act.

(i) The term "joint committee" shall mean the Joint Committee of Architects and Engineers established pursuant to the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.).

(j) The term "closely allied professional" as used in this chapter shall mean and is limited to licensed architects, professional engineers, land surveyors, and professional planners.

(k) The term "telecommunications" as used in this chapter, shall mean, as it is applied to the practice of engineering, subjects which deal with the generation, transmission, receiving, and processing of information bearing signals for the purpose of fulfilling a particular communication need. The most common forms of signals are those encountered in voice, image and data transmission. Subjects relevant to telecommunications include but are not limited to: analog and digital circuits, propagation of electromagnetic energy through guided media such as a transmission line, fibers, wave guides, and unguided media such as free space as in broadcast and mobile communication systems, communication theory, including modulation, noise interference, and the interface with computers.

3. Section 9 of P.L.1938, c.342 (C.45:8-35) is amended to read as follows:

C.45:8-35 Applications for license; contents; fees; qualifications; evidence of qualifications; examination.

9. Applications for license as professional engineers shall be on forms prescribed and furnished by the board, shall contain statements under oath, showing the applicant's education and detailed statement of his engineering experience, and shall contain not less than five references, of whom three or more shall be licensed professional engineers having personal knowledge of the applicant's engineering experience.

The application fee for professional engineers shall be set by the board and shall accompany the application.

Applications for license as land surveyors shall be on forms prescribed and furnished by the board, shall contain statements under oath, showing the applicant's education and detailed statement of his land surveying experience, and shall contain not less than five references, of whom three or more shall be licensed land surveyors

New Jersey State Library

having personal knowledge of the applicant's land surveying experience.

The application fee for land surveyors shall be set by the board and shall accompany the application.

Applications for a certificate of registration as "engineer-in-training" shall be on forms prescribed and furnished by the board, shall be accompanied by a fee set by the board and shall contain the names of three references of whom at least one shall be a professional engineer having personal knowledge of the applicant's engineering education, experience or training.

All application fees shall be retained by the board.

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for a license as a professional engineer, or as a land surveyor, or for certificate of registration as engineer-in-training, to wit:

(1) As a professional engineer:

a. Graduation from a board approved curriculum in engineering of four years or more; a specific record of an additional four years or more of experience in engineering work of a character satisfactory to the board, and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing all parts of the written examination; or

b. Graduation from a board approved curriculum in engineering technology of four years or more; a specific record of an additional six years or more of experience in engineering work of a character satisfactory to the board, and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing all parts of the written examination; or

c. Graduation from a board approved curriculum in engineering or engineering technology of four years or more; a specific record of an additional 15 years or more of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing the specialized portion of the written examination which is designated as Part P; or

d. (Deleted by amendment, P.L.1989, c.276.)

e. A certificate of registration, issued by any state or territory or possession of the United States, or of any country, may, in the

discretion of the board, be accepted as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer; provided that the requirements for license by the issuing agency are at least comparable to the requirements of the board in effect at the time of application.

(2) As a land surveyor:

a. (i) Until December 31, 1990, successful completion of a board approved program in surveying in a school or college approved by the board as of satisfactory standing; an additional four years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; and successfully passing a written examination; or

(ii) Effective January 1, 1991, graduation from a board approved curriculum in surveying of four years or more; an additional three years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of that work; and successfully passing all parts of the written examination; or

b. Until December 31, 1990, successfully passing a written examination in surveying prescribed by the board; and a specific record of six years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; or

c. (Deleted by amendment, P.L.1977, c.340.)

d. A certificate of registration, issued by any state or territory or possession of the United States, or of any country, may, in the discretion of the board, be accepted as minimum evidence satisfactory to the board that the applicant is qualified for registration as a land surveyor; provided that the requirements for license by the issuing agency are at least comparable to the requirements of the board in effect at the time of application.

(3) As an engineer-in-training:

a. Graduation from a board approved curriculum in engineering or engineering technology of four years or more; and successfully passing the fundamentals portion of the written examination which is designated as Part F.

b. (Deleted by amendment, P.L.1989, c.276.)

Qualifications.

An applicant for license as a professional engineer or land surveyor shall be able to speak and write the English language. All applicants shall be of good character and reputation.

Completion of a master's degree in engineering shall be considered as equivalent to one year of engineering experience and completion of a doctor's degree in engineering shall be considered as equivalent to one additional year of engineering experience.

In considering the qualifications of applicants, engineering teaching experience may be considered as engineering experience for a credit not to exceed two years.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of construction of such work as a foreman or superintendent, or the observation of construction as an inspector or witness shall not be deemed to be experience in engineering work.

Any person having the necessary qualifications prescribed in this chapter to entitle him to a license shall be eligible for such license, although he may not be practicing his profession at the time of making the application.

A quorum of the examining board shall not be required for the purpose of passing upon the issuance of a license to any applicant; provided that no action on any application shall be taken without at least three votes in accord.

Engineering experience of a character satisfactory to the board shall be determined by the board's evaluation of the applicant's experience relative to the ability to design and supervise engineering projects and works so as to insure the safety of life, health and property.

The scope of the examination for professional engineering and methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering projects and works so as to insure the safety of life, health and property. Examinations shall be given for the purpose of determining the qualifications of applicants for license separately in professional engineering and in land surveying. A candidate failing an examination may apply for reexamination to the extent permitted by regulations of the board. Subsequent examinations will require the pay-

ment of fees set by the board. The board will schedule two examinations per year, dates and places to be determined by the board.

Examinations of applicants for license as professional engineers will be divided into two parts, as follows:

Part F—Fundamentals of Engineering—This examination is intended to assess the applicant's competency in the fundamental engineering subjects and basic engineering sciences, such as mathematics, chemistry, physics, statics, dynamics, materials science, mechanics of materials, structures, fluid mechanics, hydraulics, thermodynamics, electrical theory, and economics. A knowledge of P.L.1938, c.342 (C.45:8-27 et seq.) is also required.

Part P—Specialized Training—This examination is intended to assess the extent of the applicant's more advanced and specialized professional training and experience especially in his chosen field of engineering.

Applicants for certificates of registration as engineers-in-training shall qualify by satisfactorily passing the fundamentals portion of the written examination.

The scope, time and place of the examinations for applicants for certificates of registration as "engineers-in-training" shall be prescribed by the board. A candidate failing an examination may apply for reexamination to the extent permitted by the regulations of the board. Subsequent examinations will require the payment of fees set by the board.

4. Section 13 of P.L.1938, c.342 (C.45:8-39) is amended to read as follows:

C.45:8-39 Practice without license and other violations; penalties; actions for penalties.

13. a. Any person who, hereafter, is not legally authorized to practice professional engineering or land surveying in this State according to the provisions of this act, who shall so practice or offer so to practice in this State, except as provided in section 14 of this act, or any person presenting or attempting to file as his own the certificate of license of another, or who shall give false or forged evidence of any kind to the board, or to any member or representative thereof, in obtaining a certificate of license, or who shall falsely impersonate another licensed practitioner of like or different name, or who shall use or attempt to use an expired certificate of license, or an unexpired and revoked certificate of license, or who shall use

the title "Engineer-in-Training" without holding a valid certificate of registration issued by the board, or who shall otherwise violate any of the provisions of this act, shall be subject to a penalty of not more than \$200.00 for the first offense and not more than \$500.00 for each and every subsequent offense. The penalties provided for by this section shall be sued for and recovered in civil actions by the State Board of Professional Engineers and Land Surveyors.

b. Pursuant to the provisions of the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.) the board:

(1) May refer any complaint, question or controversy involving the application of that act to the joint committee.

(2) Shall take no disciplinary action against any licensed architect alleged to have engaged in a violation of that act or the unlicensed practice of engineering.

(3) Shall refer a request for a declaratory ruling to the joint committee.

(4) Shall provide any and all documents in its possession regarding any matter referred to the joint committee.

(5) Shall, when necessary and appropriate, exercise the investigation or enforcement powers conferred by law to aid and assist the joint committee in its functions.

(6) Shall, consistent with that act, discipline any professional engineer who, or business association authorized to offer engineering services which, violates that act. Such a violation shall be deemed professional misconduct. Any violation of that act by an unlicensed individual or unauthorized business association shall be disciplined by the New Jersey State Board of Architects pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of architecture. However, the design of an engineering work by an unlicensed individual or unauthorized business association shall be disciplined by the State Board of Professional Engineers and Land Surveyors pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of engineering.

c. No person, firm, partnership, association or corporation shall bring or maintain any action in the courts of this State for the collection of compensation for services constituting the practice of engineering or land surveying without alleging and proving that he

was duly licensed in accordance with this chapter at the time the alleged cause of action arose.

d. The Superior Court shall have jurisdiction of actions for penalties under this act.

5. Section 1 of P.L.1952, c.130 (C.45:8-35.1) is amended to read as follows:

C.45:8-35.1 Licensed architects may be licensed as professional engineers; examination.

1. Any architect who is duly licensed to practice architecture in this State, provided he has a college degree in a program or curriculum of four years or more, shall be entitled to be licensed to engage in the practice of professional engineering upon application therefor to the State Board of Professional Engineers and Land Surveyors, and upon satisfactorily passing that part of an examination limited solely to specialized training of engineers, and which is now designated as Part P thereof. Such applicant shall be examined, according to the limitation herein provided, at a regularly conducted examination for applicants for license as professional engineer.

6. Section 17 of P.L.1938, c.342 (C.45:8-43) is amended to read as follows:

C.45:8-43 Filing of name of engineer engaged by governmental departments; employment of engineers and land surveyors.

17. The clerk of such department, institution, commission, board or body of the State Government or of any political subdivision thereof shall file with the secretary-director of the State Board of Professional Engineers and Land Surveyors the name of any engineer designated, appointed or employed, within 30 days after appointment. Where professional engineers or land surveyors are employed, subject to the provisions of the civil service law, the appointment of any such person shall be understood to mean and include appointment after such person has been certified as having satisfactorily passed a civil service examination. No person, firm, association or corporation engaged in engineering or land surveying, shall employ an engineer or land surveyor, in responsible charge of any work, within the meaning and intent of this act, other than a duly qualified professional engineer or land surveyor, who has been licensed pursuant to the provisions of this chapter, prior to such employment by the person, firm, association or corporation so engaged in engineering or land surveying; provided, however, that nothing in this chapter shall apply to any public utility as defined in chapter 2 of Title 48

of the Revised Statutes, or any employee thereof or to any improvement or proposed improvement made by any such public utility or by any employee of or any contractor or agent for said public utility.

Nothing in this chapter shall apply to a corporation or any of its affiliated companies any of which are in the field of telecommunications or any employee thereof where either said corporation or any of its affiliated companies is subject to the jurisdiction of the State Board of Public Utilities or the Federal Communications Commission.

Nothing in this chapter shall apply to a corporation in the field of telecommunications, or to its affiliates, or any employees thereof in which the primary business is research and technical development manufacturing or product design.

C.45:8-56 Certificate of authorization.

7. The board shall issue a certificate of authorization to certain corporations and those corporations shall be authorized to offer professional engineering and land surveying services or both, as follows:

a. No corporation shall offer to provide engineering services in this State unless issued a certificate of authorization pursuant to this amendatory and supplementary act. This subsection shall not apply to a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.).

b. No corporation shall offer to provide land surveying services in this State unless issued a certificate of authorization pursuant to this act. This subsection shall not apply to a professional service corporation established pursuant to the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.).

The certificate of authorization shall designate a New Jersey licensee or licensees who are in responsible charge of the engineering or land surveying activities and decisions of the corporation. All final drawings, papers or documents involving the practice of engineering or the practice of land surveying, when issued by the corporation or filed for public record, shall be signed and sealed by the New Jersey licensee who is in responsible charge of the work.

C.45:8-57 Contents of application; biennial renewal fee.

8. Prior to the issuance of a certificate of authorization, a corporation shall file with the board an application, on forms designated by the board, listing, where applicable, the name and address of the

corporation and its satellite offices, and the name, address and signature of all officers, corporate board members, directors, principals and any licensees who shall be in responsible charge of the practice of engineering or the practice of land surveying or both, through the corporation, together with such other information as may be required by the board to ensure compliance with its regulations. The same information shall accompany the biennial renewal fee. A change in any of this information shall be reported to the board within 30 days after the effective date of that change.

C.45:8-58 Powers of board.

9. The board shall have the authority to review the professional conduct of any corporation authorized to offer engineering or land surveying services or both under the provisions of P.L.1989, c.276 (C.45:8-56 et al.). In order to implement those provisions, the board may:

a. Establish by regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) a biennial renewal fee for the certificate of authorization.

b. Suspend, revoke, or refuse to renew the certificate of authorization of any corporation whose agent, employees, directors or officers violate, or cause to be violated, any of the provisions of P.L.1989, c.276 (C.45:8-56 et al.) or chapter 8 of Title 45 of the Revised Statutes pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.).

c. Adopt such rules and regulations as required to carry out the provisions of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.45:8-59 Records to establish regular, effective supervision.

10. A licensee shall maintain such records as are reasonably necessary to establish that the licensee exercised regular and effective supervision of professional services of which such licensee was in responsible charge.

C.45:8-60 Responsibility for acts of agents, employees, officers.

11. No corporation shall be relieved of responsibility for the conduct or acts of its agents, employees or officers by reason of compliance with the provisions of P.L.1989, c.276 (C.45:8-56 et al.).

Repealer.

12. Section 18 of P.L.1938, c.342 (C.45:8-44) is repealed.

13. This act shall take effect immediately but shall remain inoperative until 120 days following the enactment into law of P.L.1989, c.275 (C.45:3-1.1 et al.) and P.L.1989, c.277 (C.45:4B-1 et seq.).

Approved January 8, 1990.

CHAPTER 277

AN ACT regulating the practice of engineering and architecture, creating the Joint Committee of Architects and Engineers and supplementing Title 45 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.45:4B-1 Short title.

1. This act shall be known and may be cited as the "Building Design Services Act."

C.45:4B-2 Findings, declarations.

2. The Legislature finds and declares that there is an area of concurrent practice between the practice of architecture and the practice of engineering, specifically in the area of building design. In order to eliminate uncertainty and provide for the resolution of future disputes in the area of concurrence, the Legislature declares that it is in the public interest to create a Joint Committee of Architects and Engineers to receive referrals from the New Jersey State Board of Architects and the State Board of Professional Engineers and Land Surveyors; conduct investigations to determine violations of this act; conduct, at its discretion, hearings; communicate its findings in writing; and issue declaratory rulings on the use group classifications contained in section 7 of this act.

Nothing herein, except as provided in section 5 of this act, shall be deemed to preempt the ultimate decision making authority of the boards.

It is also the Legislature's intent to provide for contracting between architects and engineers without compromising the integrity of either profession.

This act is declared remedial except that the powers and duties of the committee shall be limited to those contained in section 5 of this act.

C.45:4B-3 Definitions.**3. For the purposes of this act:**

a. "Architectural project" means any building or structure the plans for which may be prepared, designed, signed, and sealed by a licensed architect pursuant to section 7 of this act.

b. "Boards" means the New Jersey State Board of Architects and the State Board of Professional Engineers and Land Surveyors.

c. "Closely allied professional" means and is limited to licensed architects, professional engineers, land surveyors, and professional planners.

d. "Engineering project" means a building or structure the plans for which may be prepared, designed, signed, and sealed by a professional engineer pursuant to section 7 of this act.

e. "Engineering systems" means those systems necessary for the proper function of a building and surrounding site, the proper design of which requires engineering knowledge acquired through engineering or architectural training and experience. These systems include but are not limited to structural, electrical, heating, lighting, acoustical, ventilation, air conditioning, grading, plumbing and drainage. Drainage facilities for sites of 10 acres or more or involving storm water detention facilities or traversed by a water course shall only be designed by a professional engineer.

f. "Joint committee" means the Joint Committee of Architects and Engineers created pursuant to section 4 of this act.

g. "Owner" means any person, agent, firm, partnership or corporation having a legal or equitable interest in the property or any agent acting on behalf of such individuals or entities.

h. "Practice of architecture" or "architectural services" means the rendering of services in connection with the design, construction, enlargement, or alteration of a building or a group of buildings and the space within or surrounding those buildings, which have as their principal purpose human use or habitation. These services include site planning, providing preliminary studies, architectural designs, drawings, specifications, other technical documentation, and administration of construction for the purpose of determining compliance with drawings and specifications.

i. "Practice of engineering" or "engineering services" means any service or creative work the adequate performance of which requires

engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of land and water, engineering studies, and the administration of construction for the purpose of determining compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any engineering project including: utilities, structures, buildings, machines, equipment, processes, work systems, projects, telecommunications, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning progress and completion of any engineering services. The design of buildings by professional engineers shall be consistent with section 7 of this act. The practice of professional engineering shall not include the work ordinarily performed by persons who operate or maintain machinery or equipment.

j. "Responsible charge" means the rendering of regular and effective supervision by a competent licensed architect or professional engineer as appropriate to those individuals performing services which directly and materially affect the quality and competence of professional work rendered by the licensee. A licensee engaged in any of the following acts or practices shall be deemed not to have rendered regular and effective supervision:

(1) The regular and continuous absence from principal office premises from which professional services are rendered, except for the performance of field work or presence in a field office maintained exclusively for a specific project;

(2) The failure to personally inspect or review the work of subordinates where necessary and appropriate;

(3) The rendering of a limited, cursory or perfunctory review of plans for a building or structure in lieu of an appropriate detailed review; and

(4) The failure to personally be available on a reasonable basis or with adequate advanced notice for consultation and inspection where circumstances require availability.

C.45:4B-4 Joint Committee of Architects and Engineers; created.

4. There is created in the Division of Consumer Affairs in the

Department of Law and Public Safety a Joint Committee of Architects and Engineers which shall consist of five members, two of whom shall be licensed architect members of the New Jersey State Board of Architects, two of whom shall be professional engineer members of the State Board of Professional Engineers and Land Surveyors and one of whom shall be appointed by the Governor.

The professional members shall be appointed by their respective board presidents with the advice and consent of a majority of their respective boards. They shall serve at the discretion of their respective boards during their terms of office.

The gubernatorial appointment shall be a resident of this State with experience as an arbitrator and shall not be a licensed architect, professional engineer, certified landscape architect, or a closely allied professional. The gubernatorial appointment shall serve from the date of appointment for a term of five years and shall not serve for more than two consecutive terms. The gubernatorial appointment may be removed for cause by the Governor.

An alternate member shall be chosen from each board in the same manner as the professional members. An alternate member may represent the appointing board when a professional member is absent from a joint committee meeting. While acting in this capacity the alternate member shall enjoy all the rights and privileges of a voting professional member.

The gubernatorial appointment with an equal number of architect and engineer professional members present shall constitute a quorum. No joint committee business shall be conducted without a quorum.

The joint committee shall meet at least six times a year, except that it shall meet no less than once every two months.

The joint committee members shall be entitled to receive per diem fees and expenses equivalent to fees paid to members of the professional and occupational licensing boards pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

The cost of operation of the joint committee shall be borne equally by the boards which shall adopt such fees by regulation as are necessary to fund such operation.

C.45:4B-5 Powers, duties of joint committee.

5. The joint committee shall have the following powers and duties:

a. To investigate, within a reasonable period of time, any alleged violation of this act referred by the boards.

b. To conduct, at its discretion, investigative hearings on any alleged violation of this act referred by the boards.

c. To notify the boards, in writing, if in a particular matter, it finds that no violation of this act has occurred. In the event such a finding is made, no further action shall be taken with respect to that particular matter by either board or the joint committee.

d. To notify the boards, in writing, if in a particular matter, it finds that a violation of this act has occurred. In the event of such a finding the board possessing authority to discipline the licensee or other regulated entity found to have violated this act shall either initiate disciplinary action, or where in its determination the basis for the joint committee's finding is insufficient, refer the matter back to the joint committee for further investigation and evaluation.

e. To determine, by regulation, the assignment of use group classification established pursuant to section 7 of this act for any building or structure not contemplated within the use groups or whose classification is not reasonably ascertainable.

f. To issue declaratory rulings with regard to determining a building or structure's primary use group classification for the purpose of determining if such building or structure is an architectural or engineering project, or both. Requests for declaratory rulings shall be submitted to the joint committee by either of the boards. The joint committee may issue a declaratory ruling which shall bind the boards and all parties to the proceeding on the state of the facts alleged. That ruling shall be deemed a final decision or action subject to review in the Appellate Division of the Superior Court.

g. To promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

C.45:4B-6 Referral of complaint, question, controversy to joint committee.

6. Any complaint, question, or controversy involving the application of this act may be referred to the joint committee for evaluation and such action as may be authorized herein. The boards shall provide any and all documents in their possession regarding any matter referred to the joint committee and shall, where necessary and appropriate, exercise the investigation or enforcement power conferred by law in order to aid and assist the joint committee in its functions.

No joint committee member shall be disqualified from any board deliberation or action solely by reason of that member's having participated in joint committee activity.

C.45:4B-7 Classification of buildings, structures.

7. a. For the purposes of this act, buildings and structures are classified by their use into use groups as determined by the BOCA National Building Code. The following chart based on the BOCA National Building Code/1987, tenth edition, designates projects by use groups and sets forth those which may be designed, prepared, signed, and sealed by licensed architects and professional engineers, or both, as indicated. In the event that the BOCA National Building Code's provisions are altered in subsequent editions nothing herein contained shall be deemed to be altered.

BUILDING DESIGN CATEGORIES

BOCA Use Group Classification	Architects May Design	Engineers May Design
A- Assembly	All	A-5 Outdoor Assembly use or as an incidental use.
B- Business	All	None other than Note 1 or as an incidental use.
E- Educational	All	None except for an incidental use.
F- Factory and Industrial	All	All
H- High Hazard	All	All
I- Institutional	All	None except for an incidental use.
M- Mercantile	All	None except for an incidental use.
R- Residential	All	None except for an incidental use.
S- Storage	All	All
U- Utility	All	All
	Except an Engineering Work	

Note 1. Professional engineers may design the following projects within the B Use group:

- (a) Car wash facilities;
- (b) Materials testing laboratories; and,
- (c) Telephone exchanges and data processing relay or equipment facilities.

b. An engineering work such as a sewage or water treatment plant, power plant, or transportation system, shall be prepared, designed, signed, and sealed by a professional engineer only.

c. Professional engineers may prepare, design, sign and seal buildings or portions of buildings in a non-permitted use group classification only as an incidental use.

A portion of a building shall be deemed to be an incidental use where the portion is an ancillary part of an engineering project and the building or portion is of a building design category prohibited to engineers. The area of the incidental use shall not constitute more than 10% of the building's total floor area or 2000 square feet whichever is greater.

In the design of traditional engineering works projects such as sewage or water treatment plants, power plants or transportation systems, the area of the incidental use shall not constitute more than 10% of the total square footage of all structures in the project, or 2000 square feet, whichever is greater. Where public access is a primary consideration in buildings such as transportation terminals, railroad stations, or administration buildings, those buildings shall be designed by architects only.

C.45:4B-8 Licensed architect; contracts for services; conditions.

8. A sole proprietor or business association, which may by law render or offer to render engineering services shall enter into a contract with an owner to provide architectural and engineering services under the following conditions:

a. The contract with the owner is in writing and provides for a coordinated rendering of architectural and engineering services.

b. Architectural services shall be provided pursuant to a separate, written, independent subcontract which clearly delineates the responsibility of the licensed architect or business association and the contracting entity.

c. Any subcontract for the providing of architectural services pursuant to this act shall provide that:

(1) The licensed architect or business association shall render such services as an independent professional and not as an employee of a sole proprietor or business association which may by law provide or offer to provide engineering services.

(2) The licensed architect shall exercise independent professional judgment consistent with accepted standards of the practice of architecture with regard to the project as its circumstances may dictate.

d. A professional engineer may design any engineering additions to an architectural project.

e. Corporations subject to the requirements of subsection a. of section 7 of P.L.1989, c.276 (C.45:8-56) shall, in addition to the requirements provided therein, be subject to the following:

(1) At least two thirds of the directors shall be professional engineers; and

(2) A minimum of 20% of the shares shall be owned by professional engineers.

C.45:4B-9 Professional engineer; contracts for services; conditions.

9. A sole proprietor or business association, which may by law render or offer to render architectural services, shall enter into a contract with an owner to provide architectural and engineering services under the following conditions:

a. The contract with the owner is in writing and provides for a coordinated rendering of architectural and engineering services.

b. Engineering services shall be provided pursuant to a separate, written, independent subcontract which clearly delineates the responsibility of the professional engineer or business association and the contracting entity.

c. Any subcontract for the providing of engineering services pursuant to this act shall provide that:

(1) The professional engineer or business association shall render services contracted for as an independent professional and not as an employee of a sole proprietor or business association which may by law provide or offer to provide architectural services.

(2) The professional engineer shall exercise independent professional judgment consistent with accepted standards of the practice of engineering with regard to the project as its circumstances may dictate.

d. A licensed architect may design any architectural additions to an engineering work.

C.45:4B-10 Architect to design engineering systems; conditions.

10. A licensed architect shall provide the design of engineering systems in connection with an architectural project under either of the following conditions:

a. The engineering systems are designed within the architect's office and the work is done under the responsible charge of a licensed architect or a professional engineer. Where such work is done under the responsible charge of a licensed architect, the architect shall sign and seal all plans and specifications. If the architect designates a professional engineer to be in responsible charge of all or a portion of the design of the engineering systems, the professional engineer shall sign and seal all such engineering designs; or

b. All or a portion of the engineering systems are designed outside the architect's office under a subcontract with a professional engineer who is in responsible charge of the work. The contract shall be in writing and provide that the professional engineer shall exercise independent professional judgment consistent with accepted standards of engineering with regard to the project as its circumstances may dictate. This work product shall be submitted by said engineer:

(1) On drawings with the engineer's title block, properly signed and sealed;

(2) In report or specification form, appropriately identified, signed, and sealed;

(3) In letter form properly signed;

(4) In any other form as is consistent with the assignment.

C.45:4B-11 Licensee to maintain records.

11. A licensee shall maintain such records as are reasonably necessary to establish that the licensee exercised regular and effective supervision of any professional services of which he or she was in responsible charge.

C.45:4B-12 Engineers may perform building design services, not architectural services.

12. Notwithstanding the provisions of this act, an individual or business association, which may by law practice engineering, but not architecture, shall not use the title architect or advertise or use any title, sign, card or device to indicate that that sole proprietor or business association may perform architectural services. A sole proprietor or business association in advertising or offering to perform services pursuant to section 7 or 8 of this act, shall designate or describe those services as "building design services" or the substantial equivalent but shall not utilize the term "architectural services" or its substantial equivalent.

C.45:4B-13 Architects may perform works facilities design, not engineering services.

13. Notwithstanding the provisions of this act, a sole proprietor or business association, which may by law practice architecture, but not engineering, shall not use the title engineer or advertise or use any title, sign, card or device to indicate that that sole proprietor or business association may perform engineering services. That sole proprietor or business association in advertising or offering to perform services pursuant to section 7 or 9 of this act, shall designate or describe such services as "works facilities design" or the substantial equivalent but shall not utilize the term "engineering services" or its substantial equivalent.

C.45:4B-14 Violation of act deemed professional misconduct.

14. a. Consistent with section 5 of this act, any licensed architect who, or business association authorized to offer architectural services which, violates this act shall be disciplined by the New Jersey State Board of Architects. Such a violation shall be deemed professional misconduct. Any professional engineer who, or business association authorized to offer engineering services which, violates this act shall be disciplined by the State Board of Professional Engineers and Land Surveyors. Such a violation shall be deemed professional misconduct.

b. Any violation of this act by an unlicensed individual or unauthorized business association shall be disciplined by the New Jersey State Board of Architects pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of architecture. However, the design of an engineering work by an unlicensed individual or unauthorized business association shall be disciplined by the State Board of Engineers and Land Surveyors pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of engineering.

15. This act shall take effect immediately but shall remain in-

operative until 120 days following the enactment into law of P.L.1989, c.275 (C.45:3-1.1 et al.) and P.L.1989, c.276 (C.45:8-56 et al.).

Approved January 8, 1990.

CHAPTER 278

A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1990 and regulating the disbursement thereof," approved July 1, 1989 (P.L.1989, c.122).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. In addition to the amounts appropriated under P.L.1989, c.122, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID	
34 DEPARTMENT OF EDUCATION	
30 Educational, Cultural and Intellectual Development	
31 Direct Educational Services and Assistance—State Aid	
03-5120 Miscellaneous Grants-	
In-Aid	\$50,000
State Aid:	
Camden High School Camden	
School Band Trip	(\$50,000)

The grant to be provided by this appropriation shall be in the form of matching funds to be used for the Camden High School Band trip to London to play for the Queen of England and shall be subject to the school providing funds in support of the project in an amount equal to or greater than the amount of the grant.

2. This act shall take effect immediately.

Approved January 8, 1990.

CHAPTER 279

AN ACT concerning the use of seized property pending forfeiture and amending N.J.S.2C:64-3.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.2C:64-3 is amended to read as follows:

Forfeiture procedures.

2C:64-3. Forfeiture procedures. a. Whenever any property other than prima facie contraband is subject to forfeiture under this chapter, such forfeiture may be enforced by a civil action, instituted within 90 days of the seizure and commenced by the State and against the property sought to be forfeited.

b. The complaint shall be verified on oath or affirmation. It shall describe with reasonable particularity the property that is the subject matter of the action and shall contain allegations setting forth the reason or reasons the article sought to be or which has been seized is contraband.

c. Notice of the action shall be given to any person known to have a property interest in the article. In addition, the notice requirements of the Rules of Court for an in rem action shall be followed.

d. The claimant of the property that is the subject of an action under this chapter shall file and serve his claim in the form of an answer in accordance with the Rules of Court. The answer shall be verified on oath or affirmation, and shall state the interest in the property by virtue of which the claimant demands its restitution and the right to defend the action. If the claim is made in behalf of the person entitled to possession by an agent, bailee or attorney, it shall state that he is duly authorized to make the claim.

e. If no answer is filed and served within the applicable time, the property seized shall be disposed of pursuant to N.J.S.2C:64-6.

f. If an answer is filed, the Superior or county district court shall set the matter down for a summary hearing as soon as practicable. Upon application of the State or claimant, if he be a defendant in a criminal proceeding arising out of the seizure, the Superior or county district court may stay proceedings in the forfeiture action until the criminal proceedings have been concluded by an entry of final judgment.

g. Any person with a property interest in the seized property, other than a defendant who is being prosecuted in connection with the seizure of property may secure its release pending the forfeiture action unless the article is dangerous to the public health, safety and welfare or the State can demonstrate that the property will probably be lost or destroyed if released or employed in subsequent criminal activity. Any person with such a property interest other than a defendant who is being prosecuted, prior to the release of said property shall post a bond with the court in the amount of the market value of the seized item.

h. The prosecuting agency with approval of the entity funding such agency, or any other entity, with the approval of the prosecuting agency, where the other entity's law enforcement agency participated in the surveillance, investigation or arrest which is the subject of the forfeiture action, may apply to the Superior Court for an order permitting use of seized property, pending the disposition of the forfeiture action provided, however, that such property shall be used solely for law enforcement purposes. Approval shall be liberally granted but shall be conditioned upon the filing of a bond in an amount equal to the market value of the item seized or a written guarantee of payment for property which may be subject to return, replacement or compensation as to reasonable value in the event that the forfeiture is refused or only partial extinguishment of property rights is ordered by the court.

i. If the property is of such nature that substantial difficulty may result in preserving its value during the pendency of the forfeiture action, the Superior or county district court may appoint a trustee to protect the interests of all parties involved in the action.

j. Evidence of a conviction of a criminal offense in which seized property was either used or provided an integral part of the State's proofs in the prosecution shall be considered in the forfeiture proceeding as creating a rebuttable presumption that the property was utilized in furtherance of an unlawful activity.

2. This act shall take effect immediately.

Approved January 11, 1990.

CHAPTER 280

AN ACT creating the position of sheriff's officer chief and supplementing Title 40A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.40A:9-117.15 Sheriff's officer chief; creation of position permitted.

1. The sheriff of any county may create the position of sheriff's officer chief. In a county which has adopted the provisions of Title 11A of the New Jersey Statutes, the position of sheriff's officer chief shall be an unclassified position. The sheriff's officer chief shall be the highest ranking uniformed officer within the county sheriff's department.

C.40A:9-117.16 Candidates for sheriff's officer chief; requirements.

2. A candidate for the position of sheriff's officer chief shall be a citizen of the United States, and a resident of the county of appointment for at least three years next preceding his appointment. In addition, a candidate shall be certified by the Police Training Commission as having completed a police training course at an approved school, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall have at least 10 years' experience in law enforcement.

C.40A:9-117.17 Appointment, term.

3. Any sheriff's officer chief appointed under this act shall be appointed by the sheriff to serve a term of one year, subject to reappointment by the sheriff.

C.40A:9-117.18 Sheriff to prescribe duties.

4. The sheriff shall prescribe the duties of the office of sheriff's officer chief.

C.40A:9-117.19 Continuation of position of sheriff's officer chief; reappointment.

5. Notwithstanding the provisions of section 3 of this act, any person serving as a sheriff's officer chief on the effective date of this act shall remain in the position until the expiration of his term of appointment, and may be reappointed for a term to be determined by the appointing authority.

6. This act shall take effect immediately.

Approved January 11, 1990.

CHAPTER 281

AN ACT concerning the Board of Public Utilities, amending P.L.1968, c.173.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 2 of P.L.1968, c.173 (C.48:2-60) is amended to read as follows:

C.48:2-60 Amount of assessment.

2. The assessment shall be equal to a percentage of the gross operating revenue of the public utilities under the jurisdiction of the board derived from intrastate operations during the preceding calendar year at a rate to be determined annually by the board on or before June 30 in the following manner:

The total amount appropriated to the Board of Public Utilities by law for its general purposes for its next fiscal year shall be divided by the total amount of the gross operating revenues of all public utilities under the jurisdiction of the board derived from intrastate operations during the preceding calendar year. The quotient resulting shall constitute the percentage rate of the assessment for the calendar year in which such computation is made. The total amount so assessed to any particular public utility shall not exceed 1/4 of 1% of the gross operating revenue subject to assessment hereunder of that utility derived from its intrastate operation during the preceding calendar year, except that the minimum assessment for any public utility shall be \$500.00.

2. This act shall take effect immediately and shall first apply to assessments required to be determined by the Board of Public Utilities on or before June 30, 1990.

Approved January 11, 1990.

CHAPTER 282

AN ACT establishing a 1990 Gubernatorial Inaugural Commission and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. A 1990 Gubernatorial Inaugural Commission is established to formulate plans for the official ceremonies incident to the inauguration of the Governor. The commission shall consist of two members of the Senate to be appointed by the President thereof, two members of the General Assembly to be appointed by the Speaker thereof, the Adjutant General of the Department of Military and Veterans' Affairs or his designee, the Superintendent of State Police or his designee, the Director of the Division of Purchase and Property or his designee and four citizens to be appointed by the Governor-elect.

All members of the commission shall serve without compensation but shall be entitled to reimbursement for expenses incurred in performance of their duties.

2. The commission shall meet and organize as soon as may be possible following appointment of its members at the call of the Adjutant General, shall select a chairman from among its members and appoint such other officers from among its members or otherwise as the commission shall determine. The Director of the Division of Purchase and Property is designated as the approval officer for expenditure of funds appropriated to the commission.

3. The commission is authorized to call upon and receive from State offices, departments and agencies assistance in the planning and carrying out of the gubernatorial ceremonies and functions incident thereto.

4. There is appropriated to the Division of Purchase and Property, Department of the Treasury, for the purpose of this act the sum of \$95,000.

5. This act shall take effect immediately.

Approved January 11, 1990.

CHAPTER 283

AN ACT exempting volunteers of certain organizations from liability under certain conditions and amending P.L.1987, c.87 (C.2A:53A-7.1).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1987, c.87 (C.2A:53A-7.1) is amended to read as follows:

C.2A:53A-7.1 Volunteers of certain organizations exempt from liability, damages.

1. a. Notwithstanding any other provision of law to the contrary, no person serving without compensation, other than reimbursement for actual expenses, as a trustee, director, officer or voluntary member of any board, council or governing body of any nonprofit corporation, society or association as provided in P.L.1959, c.90 (C.2A:53A-7 to 2A:53A-11), or nonprofit federation council or affiliated group composed of these organizations or a voluntary association as provided by P.L.1979, c.172 (C.18A:11-3) or to a conference under the jurisdiction of such a voluntary association, shall be liable for damages resulting from the exercise of judgment or discretion in connection with the duties of his office unless the actions evidence a reckless disregard for the duties imposed by the position.

b. Notwithstanding any provisions of law to the contrary, no person who provides volunteer service or assistance for any nonprofit corporation, society or association as provided in P.L.1959, c.90 (C.2A:53A-7 to 2A:53A-11), or nonprofit federation council or affiliated group composed of these organizations or a voluntary association as provided by P.L.1979, c.172 (C.18A:11-3) or to a conference under the jurisdiction of such a voluntary association shall be liable in any action for damages as a result of his acts of commission or omission arising out of and in the course of his rendering the volunteer service or assistance.

Nothing in this subsection shall be deemed to grant immunity to any person causing damage by his willful, wanton or grossly negligent act of commission or omission.

Nothing in this subsection shall be deemed to grant immunity to any person causing damage as the result of his negligent operation of a motor vehicle.

c. Nothing in this section shall be deemed to supercede or modify any provision of P.L.1986, c.13 (C.2A:62A-6) dealing with the civil liability of persons involved with nonprofit sports teams.

d. (1) Notwithstanding any other provision of law to the contrary, the provisions of subsection a. of this section shall be applicable to any person serving without compensation, other than reimbursement for actual expenses, as a trustee, director, officer or voluntary member of the board or governing body of any nonprofit corporation, society or association which is organized pursuant to the laws of the State of New Jersey for the purpose of operating or maintaining a cemetery or place of burial.

(2) Notwithstanding any other provision of law to the contrary, the provisions of subsection b. of this section shall be applicable to any person who provides volunteer service or assistance to any nonprofit corporation, society or association organized pursuant to the laws of the State of New Jersey for the purpose of operating or maintaining a cemetery or place of burial.

e. Notwithstanding any other provision of law to the contrary, the provisions of subsection a. of this section shall be applicable to any person serving without compensation, other than reimbursement for actual expenses, as a trustee, director, officer or voluntary member of the board or governing body of any nonprofit corporation which is organized pursuant to the provisions of Title 15A of the New Jersey Statutes and whose purpose is the encouragement of economic development in a municipality or a county.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 284

AN ACT providing for an interstate compact in regard to the placement of children between the State of New Jersey and other states and supplementing Title 9 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.9:23-5 Interstate Compact on the Placement of Children.

1. The Interstate Compact on the Placement of Children is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

PART I
INTERSTATE COMPACT ON THE PLACEMENT
OF CHILDREN
ARTICLE I. PURPOSE AND POLICY

1. It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

a. Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

b. The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement hereby promoting full compliance with applicable requirements for the protection of the child.

c. The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

d. Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. DEFINITIONS

1. a. "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

b. "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof;

a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

c. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

d. "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. CONDITIONS FOR PLACEMENT

1. a. No sending agency shall send, bring, or, cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

b. Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

c. Any public officer or agency in a receiving state which is in receipt of a notice pursuant to subsection a. of paragraph 1. of this

article may request of the sending agency, or any other appropriate office or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

d. The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. PENALTY FOR ILLEGAL PLACEMENT

1. The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the law respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for, children.

ARTICLE V. RETENTION OF JURISDICTION

1. a. The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

b. When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the

receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

c. Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in subsection a. of paragraph 1. hereof.

ARTICLE VI. INSTITUTIONAL CARE OF DELINQUENT CHILDREN

1. A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact, but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

a. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

b. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. COMPACT ADMINISTRATOR

1. The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdiction, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. LIMITATIONS

1. This compact shall not apply to:

a. The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

b. Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. ENACTMENT AND WITHDRAWAL

1. This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. CONSTRUCTION AND SEVERABILITY

1. The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

PART II

C.9:23-6 Designation of appropriate public authorities.

2. As used in Article III of the compact "appropriate public authorities" and as used in subsection a. of paragraph 1. of Article V of the compact, "appropriate authority in the receiving state" means, with reference to New Jersey, the Department of Human

Services and the department shall receive and act with reference to notices required by Article III.

C.9:23-7 Violation of compact, crime of the fourth degree.

3. Any person, firm, partnership, corporation, association or agency violating any provision of the compact is guilty of a crime of the fourth degree. If a violation consists of unintentional failure to satisfy a requirement of Article III of the compact in a timely and sufficient manner, subsequent satisfaction thereof and the receipt by the sending agency of a notice pursuant to subsection d. of paragraph 1. of Article III that the placement does not appear to be contrary to the interests of the child shall be deemed to cure the violation and no court or officer of this State shall impose any sentence or penalty on account thereof.

C.9:23-8 State officers, agencies, entering into agreements with party states; permitted.

4. The officers and agencies of this State and its subdivisions having authority to place children are empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to subsection b. of paragraph 1. of Article V of the compact. Any agreement which contains a financial commitment or imposes a financial obligation on this State or any subdivision or agency thereof shall not be binding unless it has the approval in writing of the State Treasurer.

C.9:23-9 Governor designated executive head.

5. As used in Article VII of the compact, the term "executive head" means the Governor. The Governor is authorized to appoint a compact administrator in accordance with the terms of Article VII.

C.9:23-10 Provisions not applicable.

6. The provisions of chapter 7 of Title 9 of the Revised Statutes shall not apply to children brought into the State in accordance with the terms of the compact.

C.9:23-11 Financial responsibility for child placed in State.

7. Financial responsibility for any child placed in New Jersey pursuant to the compact shall be determined in the first instance in accordance with the provisions of Article V thereof, but, in the event of partial or complete default of performance thereunder the provisions of any other law fixing the responsibility for the support of children shall apply.

C.9:23-12 Court to notify Compact Administrator of child brought into State.

8. Whenever a court, in the course of an adoption hearing, determines that the child sought to be adopted has been sent or brought

into the State the court shall give notice of that finding to the Compact Administrator.

C.9:23-13 Placement of children in foster homes, facilities in adjoining states; permitted.

9. Children may be placed in suitable foster homes or other child caring facilities in adjoining states when prior notification to the Compact Administrator is not practicable, provided that the sending agency has received from the Compact Administrators of the receiving and sending states prior written approval of the specific facilities to be used for the placement. The approval shall be reviewed at least annually by the Compact Administrators. No later than 10 days following these placements, the sending agency shall make appropriate notification in writing to the Compact Administrator in the receiving state who shall acknowledge receipt of the notification in writing and indicate whether or not the placement is contrary to the interests of the child. If the Compact Administrator in the receiving state indicates that the placement is contrary to the interests of the child, the sending agency shall arrange for the removal of the child as soon as possible.

C.9:23-14 Agreements between party states for visitation, inspection, supervision.

10. Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under Title 30 of the Revised Statutes shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this State or a subdivision thereof as contemplated by subsection b. of paragraph 1. of Article V of the compact.

C.9:23-15 Temporary removal of child from a detrimental placement; permitted.

11. Nothing contained herein shall be deemed to prevent the temporary removal of a child by the appropriate officials of the receiving state from a placement approved by the Compact Administrator where there is reasonable cause to believe that the placement may be detrimental to the health, safety or welfare of the child.

C.9:23-16 Adoption of regulations.

12. The Commissioner of Human Services shall have the power to adopt regulations for the enforcement of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.9:23-17 Jurisdiction of courts not conferred by this act.

13. Neither this act nor the compact contained herein shall be construed to confer on any court jurisdiction to place children or any

class of children if the court does not otherwise have jurisdiction in making any placements into another state party to the compact. A court shall follow the procedures and implement the requirements as are otherwise contained in law and shall also take the steps necessary for compliance with the compact.

14. This act shall take effect 90 days following enactment.

Approved January 12, 1990.

CHAPTER 285

AN ACT concerning volunteer fire companies, amending N.J.S.40A:14-68 and N.J.S.40A:14-70.1.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.40A:14-68 is amended to read as follows:

Contracts with volunteer fire companies.

40A:14-68. In any municipality not having a paid or part-paid fire department and force, the governing body, by ordinance, may contract with a volunteer fire company or companies in such municipality, for purposes of extinguishing fires, upon such terms and conditions as shall be deemed proper. The members of any such company shall be under the supervision and control of said municipality and in performing fire duty shall be deemed to be exercising a governmental function; however, the appointment or election of the chief of the volunteer fire company shall remain the prerogative of the membership of the fire company as set forth in the company's certificate of incorporation or bylaws.

2. N.J.S.40A:14-70.1 is amended to read as follows:

Establishment of a volunteer fire company within a fire district; contract with volunteer fire company outside fire district.

40A:14-70.1. a. Any persons desiring to form a volunteer fire company to be located within or otherwise servicing the area encompassing a fire district or other type of volunteer organization which has as its objective the prevention of fires or regulation of fire hazards to life and property therein shall first present to the board of fire commissioners a written application for the organization of such company. Such application shall be in the form of a duly verified

petition signed by them stating the kind of company which they desire to organize, the name or title thereof, the number and names of the proposed members thereof, and their places of residence. The board of fire commissioners, after considering such application and approving the members of the proposed company, may by resolution grant the petition and constitute such applicants a volunteer fire company of the district.

b. The board of fire commissioners of a fire district not having a paid or part-paid fire department and force may contract with a volunteer fire company or companies for the purpose of extinguishing fires, upon those terms and conditions as shall be deemed proper. The members of the company shall be under the supervision and control of the board of fire commissioners and in performing fire duty shall be deemed to be exercising a governmental function; however, the appointment or election of the chief of the volunteer fire company shall remain the prerogative of the membership of the fire company as set forth in the company's certificate of incorporation or bylaws.

3. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 286

AN ACT allowing the location of certain child care centers in certain zones of a municipality, and supplementing P.L.1975, c.291 (C.40:55D-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.40:55D-66.6 Child care centers located in nonresidential municipal districts; permitted.

1. Child care centers for which, upon completion, a license is required from the Department of Human Services pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), shall be a permitted use in all nonresidential districts of a municipality. The floor area occupied in any building or structure as a child care center shall be excluded in calculating: (1) any parking requirement otherwise applicable to that number of units or amount of floor space, as appropriate, under State or local laws or regulations adopted thereunder; and (2) the permitted

density allowable for that building or structure under any applicable municipal zoning ordinance.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 287

AN ACT concerning the purchase of credit for temporary service by employees of county hospitals and supplementing P.L.1954, c.84 (C.43:15A-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.43:15A-75.2 PERS member, purchase of credit for temporary service; permitted.

1. Notwithstanding any other law to the contrary, a member of the Public Employees' Retirement System who is employed by a county hospital in a county of the first class according to the latest federal decennial census may purchase credit for temporary service which resulted, without interruption, in permanent employment by agreeing to make contributions covering the service. The employer shall not be liable for payment to the retirement system by reason of the member's purchase of service credit under this section, and all contributions required with respect to the liability created by the purchase shall be made by the member. The member may purchase service credit under this section by making payments to the retirement system either in a lump sum or in regular monthly installments pursuant to formulas, rules and regulations as the Division of Pensions may establish.

Notwithstanding any other provision of this act to the contrary, if, upon retirement, the member's payment for the purchase of temporary service credit is insufficient to provide for the additional retirement benefit attributable to this service, the difference may be assessed to the member, or a pro rata benefit may be granted based on the member's payment for the purchase prior to the date of retirement, at the election of the member.

If a member elects to purchase credit for temporary service and retires prior to completing payment therefor, the member shall receive a pro rata credit for the service purchased prior to the date of

retirement, but if the member elects at the time of retirement, the member may make an additional lump sum payment at that time as will be necessary to provide full credit.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 288

AN ACT concerning certain graduate fellowships and supplementing chapter 71 of Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.18A:71-26.14 Findings, declarations.

1. The Legislature finds and declares that the seven individuals who perished aboard the Space Shuttle "Challenger" on January 28, 1986 reflected the ideals and aspirations of every American; that they and their achievements stand as testimony to the limitless potential of all human endeavor; that the tragedy of their deaths must never be allowed to obscure the initiative and dedication which characterized their lives; and the memory of their accomplishments as individuals and as astronauts must be preserved and continuously renewed as an inspiration to future generations.

C.18A:71-26.15 Garden State Graduate Fellowships dedicated to "Challenger" crew members.

2. Of the Garden State Graduate Fellowships awarded pursuant to P.L.1977, c.345 (C.18A:71-26.1 et seq.) seven shall be reserved and dedicated as follows:

The Gregory Jarvis Fellowship
The Sharon Christa McAuliffe Fellowship
The Ronald McNair Fellowship
The Ellison Onizuka Fellowship
The Judith Resnik Fellowship
The Francis R. Scobee Fellowship
The Michael Smith Fellowship.

C.18A:71-26.16 Selection of fellowship recipients.

3. Each eligible institution may recommend one proposed graduate fellow to be the recipient of a dedicated fellowship. In making

its recommendation, the faculty shall select an individual of high academic achievement and outstanding promise. The names of the individuals and materials in support of the nomination shall be submitted to the Student Assistance Board, which shall make the final determination of the seven individuals selected to receive the dedicated fellowships. Nominees who are not selected for a dedicated fellowship shall be eligible for a nonreserved Garden State Graduate Fellowship.

C.18A:71-26.17 Presentation of fellowships.

4. Annually, at a regularly scheduled public meeting of the State Board of Higher Education, seven individuals selected by the Student Assistance Board shall be presented with the award and with materials commemorating the lives and the achievements of the seven astronauts for whom they are named.

C.18A:71-26.18 Rules, regulations.

5. The Student Assistance Board shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations necessary to implement the provisions of this act.

6. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 289

AN ACT creating a commission to study and make recommendations concerning present statutes governing recording of real property, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. The Legislature finds and declares that:
 - a. Real property transactions within the State of New Jersey have increased tremendously in recent years;
 - b. A serious crisis exists in methods of recording real property instruments;
 - c. Many county clerks and county registers throughout the State

are experiencing considerable delays in their recording of real property instruments;

d. Other participants in the real property transfer process, such as mortgage companies and banks, also contribute to the present crisis situation; and

e. Therefore, it is necessary and desirable to create a body to study existing statutes regarding real property recording and to make recommendations concerning appropriate legislation to remedy the crisis that exists in connection with recording instruments relating to real property.

2. There is created the Real Property Recording Study Commission to consist of 14 members to be appointed as follows: a. two public members appointed by the President of the Senate, no more than one of whom shall be of the same political party; b. two public members appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party; and c. 10 members to be appointed by the Governor as follows: two representatives of the County Officers Association of New Jersey, one of whom shall be a county clerk and the other a county register; one representative of the New Jersey State Bar Association; one representative of the New Jersey Land Title Association; one representative of the Title Abstractors Association; one representative of the Mortgage Bankers Association; one representative of the Savings Bank Association; one representative of the New Jersey Savings League; one representative of the New Jersey State Archives Division; and one public member.

The initial members shall be appointed within 30 days of the effective date of this act. All members shall serve without compensation. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

3. The commission shall select from among its members a chairman and a vice chairman and also shall select a secretary who need not be a member of the commission.

4. It shall be the duty of the commission to study and make recommendations concerning the recording of real property instruments, including a comprehensive review of Title 46 of the Revised Statutes and other related statutes relevant to property recordings in order to modernize, update and make more efficient the procedures in place for the expeditious recording and indexing of real property.

The commission shall issue its initial report no later than one year after the effective date of this act, and subsequent reports annually thereafter, containing its findings, conclusions and recommendations to the Governor and the Legislature with a copy to the New Jersey Law Revision Commission, along with any proposed legislation it may desire to recommend for adoption by the Legislature.

5. The commission shall be entitled to call to its assistance and avail itself of the services and assistance of any officials and employees of the State and its political subdivisions and their departments, boards, bureaus, commissions and agencies as it may require and as may be available to it for its purposes.

6. The commission may meet and hold hearings at a place or places it designates during the sessions or recesses of the Legislature.

7. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 290

AN ACT concerning the district of residence for certain students, amending P.L.1979, c.207 and N.J.S.18A:38-1 and supplementing chapter 38 of Title 18A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 19 of P.L.1979, c.207 (C.18A:7B-12) is amended to read as follows:

C.18A:7B-12 Determination of district of residence.

19. For school funding purposes, the Commissioner of Education shall determine district of residence as follows:

a. The district of residence for children in foster homes shall be the district in which the foster parents reside. If a child in a foster home is subsequently placed in a State facility or by a State agency, the district of residence of the child shall then be determined as if no such foster placement had occurred.

b. The district of residence for children who are in residential State facilities, or who have been placed by State agencies in group

homes, private schools or out-of-State facilities, shall be the present district of residence of the parent or guardian with whom the child lived prior to his most recent admission to a State facility or most recent placement by a State agency.

If this cannot be determined, the district of residence shall be the district in which the child resided prior to such admission or placement.

c. The district of residence for children whose parent or guardian temporarily move from one school district to another as the result of being homeless shall be the district in which the parent or guardian last resided prior to becoming homeless. For the purpose of this amendatory and supplementary act, "homeless" shall mean an individual who temporarily lacks a fixed, regular and adequate residence.

d. If the district of residence cannot be determined according to the criteria contained herein, or if the criteria contained herein identify a district of residence outside of the State, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the State average net current expense budget per pupil plus the appropriate categorical program support, if any. This amount shall be appropriated in the same manner as other State aid under this act. The Department of Education shall pay the amount to the Department of Human Services or the Department of Corrections or, in the case of a homeless child, to the school district in which the child is enrolled.

2. N.J.S.18A:38-1 is amended to read as follows:

Attendance at school free of charge.

18A:38-1. Public schools shall be free to the following persons over five and under 20 years of age:

(a) Any person who is domiciled within the school district;

(b) Any person who is kept in the home of another person domiciled within the school district and is supported by such other person gratis as if he were such other person's own child, upon filing by such other person with the secretary of the board of education of the district, if so required by the board, a sworn statement that he is domiciled within the district and is supporting the child gratis and will assume all personal obligations for the child relative to school requirements and that he intends so to keep and support the child gratuitously for a longer time than merely through the school term, and a copy of his lease if a tenant, or a sworn statement by his

landlord acknowledging his tenancy if residing as a tenant without a written lease, and upon filing by the child's parent or guardian with the secretary of the board of education a sworn statement that he is not supporting the child, accompanied by documentation to support the validity of the sworn statements, information from or about which shall be supplied only to the board and only to the extent that it directly pertains to the support or nonsupport of the child; provided, however, that the board of education may contest the validity of the sworn statement in proceedings before the commissioner, except that no child shall be denied admission during the pendency of any such proceedings before the commissioner, and the resident shall have the burden of proving by a preponderance of the evidence before the commissioner that the child is eligible for a free education under the criteria listed in this subsection. If in the judgment of the commissioner this evidence does not support the claim of the resident, he may assess the resident tuition for the student prorated to the time of the board's request for a sworn statement from the resident. Tuition shall be computed on the basis of 1/180 of the total annual per pupil cost to the local district multiplied by the number of days of ineligible attendance;

(c) Any person who fraudulently allows a child of another person to use his residence and is not the primary financial supporter of that child and any person who fraudulently claims to have given up custody of his child to a person in another district commits a disorderly persons offense;

(d) Any person whose parent or guardian, even though not domiciled within the district, is residing temporarily therein, but any person who has had or shall have his all-year-round dwelling place within the district for one year or longer shall be deemed to be domiciled within the district for the purposes of this section;

(e) Any person for whom the Division of Youth and Family Services in the Department of Human Services is acting as guardian and who is placed in the district by said bureau;

(f) Any person whose parent or guardian moves from one school district to another school district as a result of being homeless and whose district of residence is determined pursuant to section 19 of P.L.1979, c.207 (C.18A:7B-12).

C.18A:7B-12.1 Homeless child, determination of district of residence; tuition costs, transportation.

3. The district of residence for a homeless child determined

pursuant to section 19 of P.L.1979, c.207 (C.18A:7B-12) shall be responsible for the education of the homeless child. The district of residence shall determine the educational placement of the child after consulting with the parent or guardian. This determination shall be: a. to continue the child's education in the school district of last attendance, b. to enroll the child in the district of residence if the district of residence is not the district of last attendance, or c. to enroll the child in the school district where the child is temporarily living, whichever is in the child's best interest. If the parent or guardian objects to the determination made by the district of residence, the county superintendent of schools shall be notified and within 48 hours shall determine the placement of the child based on criteria established by the State Board of Education. Any appeals regarding the determination shall be resolved according to rules established by the State Board of Education.

When the homeless child attends school in a district other than the district of residence, the district of residence shall pay the costs of tuition for the child to attend school in that district and shall pay for any transportation costs incurred by that district. When the homeless child attends school in the district of residence while temporarily residing in another district, the district of residence shall provide for transportation to and from school pursuant to the provisions of N.J.S.18A:58-7.

4. Subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the State Board of Education shall adopt rules and regulations necessary to effectuate the purposes of this act.

5. This act shall take effect July 1 next following enactment.

Approved January 12, 1990.

CHAPTER 291

AN ACT concerning the New Jersey Transit Corporation, amending R.S.48:3-38 and N.J.S.2C:39-6, and amending and supplementing P.L.1979, c.150.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.48:3-38 is amended to read as follows:

Police for railroad, street railway, canal and steamboat companies.

48:3-38. a. On the application of any railroad, street railway, canal or steamboat company the Governor may appoint such persons as the company may designate to act as policemen for the company. The Secretary of State shall issue to each person so appointed a commission, a copy of which shall be filed in the office of the Superintendent of State Police. Each appointee shall pay to the Secretary of State a fee of \$25.00 for that commission.

All applications shall, in the first instance, be made to said superintendent. The superintendent shall investigate and determine the character, competency, integrity and fitness of the person or persons designated in the application. Notwithstanding any other provision of law in the case of any railroad, street railway, canal or steamboat company, the operations of which extend from this State to any other, such person or persons need not be residents of the State of New Jersey. If the application is approved by the superintendent, the applicant shall then present the approved application to the Governor.

Every person so appointed and commissioned shall, in the several counties, possess all the powers of policemen and constables in criminal cases of the several municipalities in such counties and shall be compensated by the company.

When on duty, except when employed as a detective, he shall wear in plain view a metallic shield or device with the words "railway police," "canal police" or "steamboat police" as may be appropriate, and the name or style of the company for whom he was appointed inscribed thereon.

Notwithstanding anything to the contrary herein contained, all appointments made prior to the effective date of this enactment which meet the requirements thereof shall be and they hereby are declared to be valid.

When any such company shall file in the offices of the Superintendent of State Police a notice that it no longer requires the service of such policeman, his power as such shall cease and determine.

b. The provisions of subsection a. of this section do not apply to the New Jersey Transit Corporation established by P.L.1979, c.150 (C.27:25-1 et seq.). The executive director of the corporation, through the chief of police of the New Jersey Transit Rail Operations Police Department, may appoint and employ rail police officers under the provisions of section 2 of this 1989 amendatory and supplementary act.

All railway policemen who were appointed pursuant to this section and who are employed by the corporation on the effective date of this 1989 amendatory and supplementary act shall continue in employment, and shall be appointed pursuant to section 2 of this 1989 amendatory and supplementary act as rail police officers of the corporation without diminution in compensation or seniority rights or impairment of tenure. Nothing in this 1989 amendatory and supplementary act shall affect the rights, privileges, obligations or status with respect to any pension or retirement system or employee benefits program of these railway policemen.

C.27:25-15.1 New Jersey Transit Rail Operations Police Department; established, duties, appointments, training.

2. a. There is established in the New Jersey Transit Corporation a New Jersey Transit Rail Operations Police Department, which shall be headed by a chief of police. The executive director of the New Jersey Transit Corporation, through the chief of police of the New Jersey Transit Rail Operations Police Department, shall have the power and authority to appoint and employ such number of rail police officers as he deems necessary to act as rail police officers of the corporation and to administer to the rail police officers an oath or affirmation faithfully to perform the duties of their respective positions or offices. The rail police officers so appointed shall have general authority, without limitation, to exercise police powers and duties, as provided by law for police officers and law enforcement officers, in all criminal and traffic matters at all times throughout the State and, in addition, to enforce such rules and regulations as the corporation shall adopt and deem appropriate. The members of the New Jersey Transit Rail Operations Police Department shall comply with all policies established by the Attorney General, including rules and regulations, directives, advisory opinions, and other guidelines. The executive director, through the chief of police of the New Jersey Transit Rail Operations Police Department, shall, in

accordance with procedures established by the Superintendent of State Police, investigate and determine the character, competency, integrity and fitness of any person making application for appointment as a police officer. The New Jersey Transit Rail Operations Police Department is authorized to exchange fingerprint data and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation, Identification Division, for use in making this determination.

b. All railway policemen who were appointed pursuant to R.S.48:3-38 and who are employed by the corporation on the effective date of this 1989 amendatory and supplementary act shall continue in employment, and shall be appointed pursuant to this section as rail police officers of the corporation without diminution in compensation or seniority rights or impairment of tenure. Nothing in this 1989 amendatory and supplementary act shall affect the rights, privileges, obligations or status with respect to any pension or retirement system or employee benefits program of these railway policemen.

c. All rail police officers appointed pursuant to this section shall satisfy the training requirements established by the Police Training Commission as follows:

(1) All officers appointed pursuant to this section after the effective date of this 1989 amendatory and supplementary act shall successfully complete, within one year of the date of their appointment, a training course approved by the Police Training Commission;

(2) All officers appointed and in employment on the effective date of this 1989 amendatory and supplementary act may continue in employment if, within 18 months of the effective date of this act, they have satisfied the training requirements of the Police Training Commission;

(3) The executive director, through the chief of police of the New Jersey Transit Rail Operations Police Department, may request from the Police Training Commission an exemption from all or part of the training requirements of this subsection on behalf of a current or prospective officer who demonstrates successful completion of a police training course conducted by any federal, state or other public or private agency, the requirements of which are substantially equivalent to the requirements of the Police Training Commission.

3. Section 8 of P.L.1979, c.150 (C.27:25-8) is amended to read as follows:

C.27:25-8 Corporation not public utility; inapplicability of Title 48; fares and service; jurisdiction; notice and hearing on changes in rates.

8. a. The corporation or any subsidiary thereof shall not be considered a public utility as defined in R.S.48:2-13 and except with regard to subsection c. of this section, subsection b. of R.S.48:3-38 and section 2 of P.L.1989, c.291 (C.27:25-15.1) the provisions of Title 48 of the Revised Statutes shall not apply to the corporation or any subsidiary thereof.

b. The authority hereby given the corporation pursuant to section 6 of this act with respect to fares and service, shall be exercised without regard or reference to the jurisdiction vested in the Department of Transportation by R.S.48:2-21, 48:2-24 and 48:4-3. The Department of Transportation shall resume jurisdiction over service and fares upon the termination and discontinuance of a contractual relationship between the corporation and a private or public entity relating to the provision of public transportation services operated under the authority of certificates of public convenience and necessity previously issued by the department or its predecessors; provided, however, that no private entity shall be required to restore any service discontinued or any fare changed during the existence of a contractual relationship with the corporation, unless the Department of Transportation shall determine, after notice and hearing, that the service or fare is required by public convenience and necessity.

c. Notwithstanding any other provisions of this act, all vehicles used by any public or private entity pursuant to contract authorized by this act, and all vehicles operated by the corporation directly, shall be subject to the jurisdiction of the Department of Transportation with respect to maintenance, specifications and safety to the same extent such jurisdiction is conferred upon the department by Title 48 of the Revised Statutes.

d. Before implementing any fare increase for any motorbus regular route or rail passenger services, or the substantial curtailment or abandonment of any such services, the corporation shall hold a public hearing in the area affected during evening hours. Notice of such hearing shall be given by the corporation at least 15 days prior to such hearing to the governing body of each county whose residents will be affected and to the clerk of each municipality in the county or counties whose residents will be affected; such notice shall also be posted at least 15 days prior to such hearing in prominent places on the railroad cars and buses serving the routes to be affected.

4. N.J.S.2C:39-6 is amended to read as follows:

Exemptions.

2C:39-6. a. Provided a person complies with the requirements of subsection j. of this section, N.J.S.2C:39-5 does not apply to:

(1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;

(2) Federal law enforcement officers, and any other federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police and, under conditions prescribed by the superintendent, members of the Marine Law Enforcement Bureau of the Division of State Police;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspector of the Alcoholic Beverage Control Enforcement Bureau of the Division of State Police in the Department of Law and Public Safety authorized to carry such weapons by the Superintendent of State Police, State park ranger, or State conservation officer;

(5) A prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess the weapon by his superior officer, or a correction officer or keeper of a penal institution in this State at all times while in the State of New Jersey, provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties;

(7)(a) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey;

(b) A special law enforcement officer authorized to carry a weapon as provided in subsection b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14);

(c) An airport security officer or a special law enforcement officer appointed by the governing body of any county or municipality, except as provided in subsection b. of this section, or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons; or

(8) A full-time, paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time or part-time to an arson investigation unit created pursuant to section 1 of P.L.1981, c.409 (C.40A:14-7.1) or to the county arson investigation unit in the county prosecutor's office, while either engaged in the actual performance of arson investigation duties or while actually on call to perform arson investigation duties and when specifically authorized by the governing body or the county prosecutor, as the case may be, to carry weapons. Prior to being permitted to carry a firearm, such a member shall take and successfully complete a firearms training course administered by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm.

b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged in his official duties, provided, however, that he has first notified the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged; or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that the weapon is carried in the manner specified in subsection g. of this section.

c. Provided a person complies with the requirements of subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry, while in the actual performance of his official duties and while going to or from his place of duty, or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) (Deleted by amendment, P.L.1986, c.150.)

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge of any municipal court or other court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) An officer of the Society for the Prevention of Cruelty to Animals, while in the actual performance of his duties;

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives;

(9) A railway policeman, except a rail police officer of the New Jersey Transit Rail Operations Police Department, at all times while in the State of New Jersey, provided that he has passed an approved police academy training program consisting of at least 280 hours. The training program shall include, but need not be limited to, the handling of firearms, community relations, and juvenile relations; or

(10) A campus police officer appointed under P.L.1970, c.211 (C.18A:6-4.2 et seq.), while going to and from his place of duty and while in the course of performing official duties or while in the course of an official investigation within the State. Prior to being permitted to carry a firearm, a campus police officer shall take and successfully complete a firearms training course administered by the Police Train-

ing Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm; or

(11) A person who has not been convicted of a crime under the laws of this State or under the laws of another state or the United States, and who is employed as a full-time security guard for a nuclear power plant under the license of the Nuclear Regulatory Commission, while in the actual performance of his official duties.

(12) A rail police officer of the New Jersey Transit Rail Operations Police Department, at all times while in the State of New Jersey, provided the officer has satisfied the training requirements of the Police Training Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291 (C.27:25-15.1).

d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent.

(2) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an antique cannon that is capable of being fired but that is unloaded and immobile, provided that the antique cannon is possessed by (a) a scholastic institution, a museum, a municipality, a county or the State, or (b) a person who obtained a firearms purchaser identification card as specified in N.J.S.2C:58-3.

(3) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is being transported by one eligible to possess it, in compliance with regulations the superintendent may promulgate, between its permanent location and place of purchase or repair.

(4) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to antique cannons that are being loaded or fired by one eligible to possess an antique cannon, for purposes of exhibition or demonstration at an authorized target range or in the manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a

particular municipality, the superintendent, provided that performer has given at least 30 days' notice to the superintendent.

(5) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to the transportation of unloaded antique cannons directly to or from exhibitions or demonstrations authorized under paragraph (4) of subsection d. of this section, provided that the transportation is in compliance with safety regulations the superintendent may promulgate. Nor do those subsections apply to transportation directly to or from exhibitions or demonstrations authorized under the law of another jurisdiction, provided that the superintendent has been given 30 days' notice and that the transportation is in compliance with safety regulations the superintendent may promulgate.

e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided the person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of the travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder; or

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying the firearms to the public or to the members of the organization or club, provided, however, that not less than 30 days prior to the exhibition or display, notice of the exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section shall be transported in the manner specified in subsection g. of this section;

(4) A person from keeping or carrying about a private or commercial aircraft or any boat, or from transporting to or from such vessel for the purpose of installation or repair a visual distress signaling device approved by the United States Coast Guard.

g. All weapons being transported under paragraph (2) of subsection b., subsection e., or paragraph (1) or (3) of subsection f. of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and in the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any employee of a public utility, as defined in R.S.48:2-13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or

emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and which immobilizes only on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health.

i. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any person who is 18 years of age or older and who has not been convicted of a felony, from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, but rather, is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air. Any person in possession of any device in violation of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than \$100.00.

j. A person shall qualify for an exemption from the provisions of N.J.S.2C:39-5, as specified under subsections a. and c. of this section, if the person has satisfactorily completed a firearms training course approved by the Police Training Commission.

Such exempt person shall not possess or carry a firearm until the person has satisfactorily completed a firearms training course and shall annually qualify in the use of a revolver or similar weapon. For purposes of this subsection, a "firearms training course" means a course of instruction in the safe use, maintenance and storage of firearms which is approved by the Police Training Commission. The commission shall approve a firearms training course if the requirements of the course are substantially equivalent to the requirements for firearms training provided by police training courses which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3) or (6) of subsection a. of this section shall be exempt from the requirements of this subsection.

k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any financial institution, or any duly authorized personnel of the institution, from possessing, carrying or using for the protection of money or property, any device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or temporary identification.

5. This act shall take effect on the 30th day after enactment.

Approved January 12, 1990.

CHAPTER 292

AN ACT concerning polling places and amending R.S.19:8-2.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.19:8-2 is amended to read as follows:

Tentative list of available places, selections.

19:8-2. The clerk of every municipality, on or before April 1 shall certify to the county board of every county wherein such municipality is located a suggested list of places in the municipality suitable for polling places. The county board shall select the polling places for the election districts in the municipalities of the county for all elections in the municipalities thereof, including all commission government elections in the county. The county boards shall not be obliged to select the polling places so suggested by the municipal clerks, but may choose others where they may deem it expedient. Preference in locations shall be given to schools and public buildings where space shall be made available by the authorities in charge, upon request, if same can be done without detrimental interruption of school or the usual public services thereof, and for which the authority in charge shall be reimbursed, by agreement, for expenses of light, janitorial and other attending services arising from such use. In no case shall the authorities in charge of a public school or other public building deny the request of the county board for the use, as a polling place, of any building they own or lease.

Where the county board shall fail to agree as to the selection of the polling place or places for any election district, within five days of an election, the county clerk shall select and designate the polling place or places in any such election district.

The county board may select a polling place other than a schoolhouse or public building outside of the district but such polling place shall not be located more than 1,000 feet distant from the boundary line of the district.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 293

AN ACT creating a State Employment and Training Commission, amending P.L.1966, c.129 and P.L.1987, c.457, supplementing Title 34 of the Revised Statutes and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.1966, c.129 (C.52:18A-129) is amended to read as follows:

C.52:18A-129 Duties.

5. The Office of Economic Policy shall:

(a) Assist the Governor and the executive departments with the establishment of statistical standards and procedures.

(b) Make reports and undertake, at the request of the Governor, the Economic Policy Council, and the Legislature such studies as may be pertinent for the accomplishment of legislative and executive purposes.

(c) Cooperate with and make its resources available to other public and private agencies having related responsibilities and interests.

(d) Gather and serve as a clearinghouse for timely and authoritative information concerning the economic growth and development of the State.

(e) Analyze and assess the various laws, programs, and activities of the State as to the effect on the economy.

(f) Evaluate the impact of international, federal, and other State programs in terms of their effect on the economy of this State.

(g) Recommend policies consistent with the intent and purposes of this act.

(h) Report to the Governor annually and at such other times as it may deem in the public interest with respect to its findings and conclusions.

(i) Assist the State Employment and Training Commission in preparing the State employment and training plan pursuant to section 10 of P.L.1989, c.293 (C.34:15C-7).

The office shall have access to all files and records of other State agencies and may require any officer or employee therein to provide such information as it may deem necessary in the performance of its functions.

2. Section 1 of P.L.1987, c.457 (C.34:1A-76) is amended to read as follows:

C.34:1A-76 New Jersey Occupational Information Coordinating Committee; established, duties.

1. There is established in, but not of, the Department of Labor the New Jersey Occupational Information Coordinating Committee which shall:

a. Design and implement a comprehensive occupational information system to meet the common informational needs for the planning for, and the operation of, all public training and job placement programs and which is responsive to the economic demand and education and training supply support needs of the State and of areas within the State, as designated by the Commissioner of Labor.

b. Coordinate the standardization of available federal and State multi-agency administrative records and occupational survey data sources as needed by the committee to produce an employment, education and economic analysis that includes an identification of occupational areas of potential growth or decline and a discussion of the implications of these trends for employment, education and training policy and for economic development in the State. In preparing the analysis the committee shall also utilize a set of occupational projections for the State and areas within the State designated by the Commissioner of Labor, which shall be published by the Department of Labor.

c. Assure, to the greatest possible extent, that, with respect to the State's occupational supply and demand reporting system:

(1) automated technology is used by the State;

- (2) administrative records are designed to reduce paperwork;
- (3) available administrative data and surveys are consolidated to reduce duplication of recordkeeping by State and local agencies, including secondary and postsecondary educational institutions; and
- (4) multiple survey burdens on employers in the State are reduced.

d. Publish and disseminate occupational labor market supply and demand information, including the results of the surveys conducted pursuant to subsection h. of this section, and individualized career information to State agencies, public libraries, and private not-for-profit users, and individuals who are in the process of making career decisions.

e. Conduct and encourage research and demonstration projects designed to improve any aspect of the Statewide information system.

f. Publish, at least annually, a report which analyzes and summarizes the relationship between occupational supply and demand to serve as a guide for the State's job training and education programs.

g. Use the occupational information system to implement a career information delivery system which will provide students and other career decisionmakers with accurate, timely and locally relevant information on the careers available in the New Jersey labor market.

h. From time to time, conduct, on a Statewide basis, a comprehensive survey of occupations in the State comparing the total need or anticipated need for trained workers in each occupation with the total number being trained and designate as a labor demand occupation each occupation which it determines to be an occupation which has or is likely to have a significant excess of demand over supply for adequately trained workers. In cases where a private industry council established pursuant to section 18 of P.L.1989, c.293 (C.34:15C-15) submits information to the New Jersey Occupational Information Coordinating Committee that there is or is likely to be, in the region for which the council is responsible, a significant excess of demand over supply of adequately trained workers for an occupation, the committee may conduct a survey of the need or anticipated need in that region for trained workers in that occupation and, whether or not it conducts that survey, shall, in conjunction with the council, determine whether to designate the occupation to be a labor

demand occupation in that region. The committee may utilize survey data obtained by other agencies or from other sources to fulfill its responsibilities under this subsection.

i. Assist the State Employment and Training Commission in preparing the State employment and training plan pursuant to section 10 of P.L.1989, c.293 (C.34:15C-7) by providing information requested by the commission, including the information needed to estimate the numbers of individuals in the State who are in need of different types of training and employment services, and the percentage of them who currently receive each type of service from either the public or private sectors.

3. Section 2 of P.L.1987, c.457 (C.34:1A-77) is amended to read as follows:

C.34:1A-77 Members of committee, interagency agreement.

2. The committee shall:

a. Include the Commissioner of Commerce, Energy and Economic Development, as the representative of the State economic development agency; the Commissioner of Education, as the representative of the State board for vocational education; the Chancellor of Higher Education; the Commissioner of Labor, as the representative of the State employment security agency and the agency administering the vocational rehabilitation program; and the Chairman of the State Employment and Training Commission.

b. Implement an interagency agreement among all of its statutory members detailing the operating procedures to be followed to fulfill the purposes of this act.

C.34:15C-1 Definitions.

4. As used in this act:

a. "At-risk youth" means a teenage high school dropout or a teenage parent or other teenager whose pattern of behavior is likely to result in becoming a high school dropout.

b. "Commission" means the State Employment and Training Commission established pursuant to section 5 of this act.

c. "Employment and training programs" means programs and services which are State or federally funded and designed to develop or maintain the productivity and earning power of workers and job seekers.

d. "Labor demand occupation" means an occupation which:

(1) The New Jersey Occupational Information Coordinating Committee has, pursuant to subsection h. of section 1 of P.L.1987, c.457 (C.34:1A-76), determined is or will be, on a Statewide basis, subject to a significant excess of demand over supply for trained workers, based on a comparison of the total need or anticipated need for trained workers with the total number being trained; or

(2) The New Jersey Occupational Information Coordinating Committee, in conjunction with a private industry council, has, pursuant to subsection h. of section 1 of P.L.1987, c.457 (C.34:1A-76), determined is or will be, in the region for which the council is responsible, subject to a significant excess of demand over supply for adequately trained workers, based on a comparison of total need or anticipated need for trained workers with the total number being trained.

e. "Private industry council" means a private industry council established pursuant to section 18 of this act.

C.34:15C-2 State Employment and Training Commission; created.

5. There is created in the Executive Branch of the State Government a commission which shall be known as the State Employment and Training Commission. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated within the Department of Labor, but notwithstanding this allocation, the commission shall be independent of any supervision or control by the department or by any board or officer thereof.

C.34:15C-3 Members of the commission; appointments; terms.

6. The commission shall consist of the following members: the Commissioners of Commerce, Energy and Economic Development, Community Affairs, Education, Human Services, and Labor and the Chancellor of Higher Education, all of whom shall serve ex officio; one member of the Senate appointed by the Governor to serve during the two-year legislative session in which the appointment is made; one member of the General Assembly appointed by the Governor to serve during the two-year legislative session in which the appointment is made; and a number of public members as determined by the Governor pursuant to section 122 of the "Job Training Partnership Act," Pub.L.97-300 (29 U.S.C. § 1532). The public members shall be appointed by the Governor with the advice and consent of the Senate for terms of three years, except that of the public members first appointed by the Governor, not less than 30% shall be appointed for three years, not less than 30% shall be appointed for two years,

and the others shall be appointed for one year. Not more than half of the members appointed by the Governor shall be of the same political party. The composition of the commission shall be consistent with the composition required for a State job training coordinating council pursuant to section 122(a)(3) of the "Job Training Partnership Act," Pub.L.97-300 (29 U.S.C. § 1532). Each member shall hold office for the term of appointment and until his successor is appointed and qualified. A member appointed to fill a vacancy occurring in the membership of the board for any reason other than the expiration of the term shall have a term of appointment for the unexpired term only. All vacancies shall be filled in the same manner as the original appointment. A member may be appointed for any number of successive terms. Any member appointed by the Governor may be removed from office by the Governor, for cause, after a hearing and may be suspended by the Governor pending the completion of the hearing. Members of the board shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties as members. Action may be taken and motions and resolutions may be adopted by the board at a board meeting by an affirmative vote of a majority of the members. The Governor shall select a chairperson who shall be a nongovernmental member of the commission. Advanced notification for, and copies of the minutes of, each meeting of the commission shall be filed with the Governor, the President of the Senate and the Speaker of the General Assembly.

C.34:15C-4 Appointment of executive director; duties.

7. The commission shall appoint an executive director. The executive director shall report to the chairperson of the commission and be responsible for administering the daily operations of the commission, and may appoint not more than four administrators. The executive director and the administrators shall serve in the State unclassified service. The commission may also hire and employ, pursuant to Title 11A, Civil Service, of the New Jersey Statutes, other professional, technical, and clerical staff as may be necessary to perform the functions assigned to the commission. The commission may call to its assistance and avail itself of the services of the employees of any other units of State government as it may require and as may be available to it for that purpose.

C.34:15C-5 Purpose of commission.

8. The purpose of the commission shall be to develop and assist in the implementation of a State employment and training policy with the goal of creating a coherent, integrated system of employment

and training programs and services which, in concert with the efforts of the private sector, will provide each citizen of the State with equal access to the learning opportunities needed to attain and maintain high levels of productivity and earning power. The principal emphasis of the employment and training policy shall be developing a strategy to fill significant gaps in New Jersey's training and employment efforts, with special attention to finding ways to mobilize and channel public and private resources to individuals who would otherwise be denied access to the training and education they need to make their fullest contribution to the economic well being of the State. To the extent practicable, the strategy shall emphasize types of training and education which foster the communication and critical thinking skills in workers and job seekers which will be of greatest benefit for long term career advancement.

C.34:15C-6 Duties of commission.

9. The commission shall:

- a. Issue the annual State employment and training plan pursuant to the provisions of section 10 of this act;
- b. Establish performance standards for training and employment programs pursuant to section 11 of this act;
- c. Conduct its responsibilities in relationship to the New Jersey Institute for Employment and Training Staff Development as required pursuant to section 12 of this act;
- d. Foster and coordinate initiatives of the Departments of Education and Higher Education to enhance the contributions of public schools and institutions of higher education to the implementation of the State employment and training policy;
- e. Examine federal and State laws and regulations to assess whether those laws and regulations present barriers to achieving any of the goals of this act. The commission shall, from time to time as it deems appropriate, issue to the Governor and the Legislature reports on its findings, including recommendations for changes in State or federal laws or regulations concerning employment and training programs or services, including, when appropriate, recommendations to merge other State advisory structures and functions into the commission;
- f. Perform the duties assigned to a State job training coordinating council pursuant to section 122 of Title I of the "Job Training Partnership Act," Pub.L.97-300 (29 U.S.C. § 1532) and Title III of that act (29 U.S.C. § 1651 et seq.);

g. Have the authority to enter into agreements with the commissioner or chancellor, as the case may be, of each State department which administers or funds employment or training programs, including, but not limited to, the Departments of Labor, Community Affairs, Education, Higher Education, and Human Services, which agreements are for the purpose of assigning planning, policy guidance and oversight functions to each private industry council with respect to any employment or training program funded or administered by the State department within the private industry council's respective labor market area or service delivery area, as the case may be; and

h. Establish guidelines to be used by the private industry councils in performing the planning, policy guidance, and oversight functions assigned to the councils under any agreement reached by the commission with a department pursuant to subsection g. of this section.

The commission shall have access to all files and records of other State agencies and may require any officer or employee therein to provide such information as it may deem necessary in the performance of its functions.

C.34:15C-7 Issuance of annual State employment and training plan.

10. The commission shall annually issue a State employment and training plan. The plan shall include:

a. A description of the State employment and training policy developed pursuant to section 8 of this act;

b. An assessment and an evaluation of the demand for various kinds of trained workers in New Jersey and recommendations on how to direct the State's employment and training efforts to be most effective in using that demand to increase the productivity and earning power of the work force;

c. Estimates of the numbers of individuals who are eligible for or in need of different types of training and employment services, the percentage of them who currently receive each type of service from either the public or private sectors, and comprehensive proposals for increasing the percentage of eligible individuals who receive each type of service, with priority given to those individuals who are confronted with the most serious difficulties in obtaining the education and training they need to attain their full productive and earning potentials;

d. A description of any performance standards established pursuant to section 11 of this act and remedial education standards

established pursuant to section 14 of this act and any evaluation of an employment and training program based on those standards;

e. Evaluations of other existing employment and training programs, their goals and structures, and the consistency of each program with the State employment and training policy developed by the commission;

f. (1) Evaluations of the organizational structures, functions and activities of governmental agencies performing advisory functions or activities in relation to employment and training programs or services, including advisory functions and activities performed in connection with vocational education, adult education, apprenticeship, vocational rehabilitation and human services programs; and

(2) Recommendations to the Governor about coordination of the State's efforts in these program areas, including, if the commission deems appropriate, a recommendation to the Governor for the transfer of these advisory functions and activities to the jurisdiction of the commission; and

g. Recommendations for any other changes the commission deems appropriate in the overall structure of the State's employment and training system, including the consolidation of duplicative programs and services and the reallocation of State and federal funds to the agencies able to make the best use of those funds.

Each report shall be submitted to the Governor, the Legislature and each department charged with the operation of any program or service which is evaluated by the commission or the subject of a recommendation in the report.

The commission may, at any other time as it deems appropriate, issue additional reports to the Governor and the Legislature concerning any of the subjects addressed in the annual State employment and training plan.

C.34:15C-8 Establishment of performance standards for employment and training programs.

11. a. The commission shall establish quantifiable performance standards for evaluating each employment and training program, and guidelines for procedures to encourage and enforce compliance with those standards. The commission shall establish the standards and procedures in conjunction with the Department of Labor and any other department which funds or administers the program.

The standards shall be designed to measure the success of each

program in assisting the individuals it serves to attain and maintain high levels of productivity and earning power, through preparation for employment in occupations with significant opportunities for career advancement. The standards shall take into account the specific needs and characteristics of the target populations which the programs serve.

b. Each employment and training program, including any program funded or established pursuant to P.L.1983, c.328 (C.34:15B-11 et al.), P.L.1987, c.71 (C.34:15B-27 et seq.), the "Job Training Partnership Act," Pub.L.97-300 (29 U.S.C. § 1501 et seq.), or Title VI of the "Omnibus Trade and Competitiveness Act of 1988," Pub.L.100-418 (20 U.S.C. § 5001 et al.), is hereby deemed to be subject to the performance standards and guidelines established pursuant to subsection a. of this section. The performance standards for the program shall be based on factors including, but not limited to:

(1) The percentage of trainees who are placed, following completion of the program, in employment in the occupation for which they are trained or who are enrolled for further education or training, if those enrollments are a goal of the program;

(2) The success of the program in sustaining or increasing the trainees' levels of earnings, based on wage levels upon placement in employment, and the trainees' potential for further advancement. The factors indicated in this paragraph shall be given a weight of not less than 20% in the evaluation of the program, unless enrollment for further education or training is a goal of the program;

(3) The percentage of trainees served by the program who are designated under the performance standards as having the greatest need for the services provided by the program, based on criteria appropriate to the program; and

(4) The success of the program in facilitating the remedial education which the program is required to make available to trainees under standards established pursuant to section 14 of this act.

In establishing performance standards, the commission shall not use criteria which may adversely affect the assessment of a program because of any emphasis the program may have on long-term vocational training and education.

The commission shall establish dates by which each department administering employment and training programs shall adopt the

standards and guidelines for use in the planning, budgeting and administration of those programs.

The standards shall apply to a program which is federally funded except to the extent that application of the standards would prevent the program from receiving the federal funding.

C.34:15C-9 New Jersey Institute for Employment and Training Staff Development; created, duties.

12. a. There is created, within the commission, a New Jersey Institute for Employment and Training Staff Development. The institute shall be headed by a director who shall be appointed by and under the supervision of the Executive Director of the commission. The Director of the Institute for Employment and Training Staff Development shall:

(1) Continuously evaluate the need for upgrading the professional and technical competence of employees of State and local employment and training agencies;

(2) Develop curricula, seminars, conferences, advanced training courses and similar activities to improve the level of competence of employment and training staff; and

(3) Be authorized to enter into contracts with providers of staff development services in accordance with an annual plan and budget approved by the commission. The contracts shall be issued in accordance with established State procedures.

b. Nothing in this act shall be construed to affect the authority of the Commissioner of Personnel to review and approve training programs for State employees pursuant to N.J.S.11A:6-25.

C.34:15C-10 Commission shall establish requirements for each employment and training program.

13. The commission shall establish such requirements as it deems appropriate for each employment and training program to utilize: the New Jersey Career Information Delivery System for the delivery of individual career decision-making information; and the comprehensive occupational information system designed and implemented by the New Jersey Occupational Information Coordinating Committee pursuant to P.L.1987, c.457 (C.34:1A-76 et seq.) for program planning. The New Jersey Career Information Delivery System shall be used by entities administering job training programs within service delivery areas established pursuant to the provisions of the "Job Training Partnership Act," Pub.L.97-300 (29 U.S.C. § 1501 et seq.), unless it is demonstrated that alternative

services are more effective for the delivery of individual career decision-making information.

C.34:15C-11 Commission to coordinate initiatives with State departments.

14. a. The commission shall foster and coordinate initiatives of the Department of Education and the Department of Higher Education to maximize the contributions of the State's public schools and institutions of higher education in implementing the State employment and training policy developed by the commission. The commission shall foster and coordinate initiatives of the Department of Education and the Department of Higher Education which will enhance the State's efforts to assist at-risk youths in achieving educational success and making successful transitions to work. The commission shall foster initiatives of the Department of Higher Education among institutions of higher education which will enhance the State's employment and training efforts, including: the coordination of vocational programs between institutions; more use of facilities at institutions which provide education at or above the level of county colleges, including, but not limited to, the Advanced Technology Centers established pursuant to P.L.1985, c.102 (C.52:9X-1 et seq.), P.L.1985, c.103 (C.18A:64J-1 et seq.), P.L.1985, c.104 (C.18A:64J-8 et seq.), P.L.1985, c.105 (C.18A:64J-15 et seq.), and P.L.1985, c.106 (C.18A:64J-22 et seq.); developing more programs to offer four year degrees for working students who attend only at nights and on weekends; and expanding programs which provide college credit for training and educational experiences outside of traditional academic contexts.

b. The commission shall have the responsibility, jointly with the Department of Education, the Department of Labor and the Department of Higher Education, to: (1) establish standards regarding the minimum levels of remedial education which shall be made available to a trainee under any employment and training program, including any program funded or established pursuant to P.L.1983, c.328 (C.34:15B-11 et seq.), P.L.1987, c.71 (C.34:15B-27 et al.), the "Job Training Partnership Act," Pub.L.97-300 (29 U.S.C. § 1501 et seq.), or Title VI of the "Omnibus Trade and Competitiveness Act of 1988," Pub.L.100-418 (20 U.S.C. § 5001 et al.); and (2) coordinate the development of appropriate intake and assessment instruments and procedures for the assessment of persons seeking access to employment and training programs. The remedial education standards shall take into account the differing needs and characteristics of the various target populations which the programs serve.

C.34:15C-12 Preparation of annual budget.

15. The chairperson of the commission shall prepare an annual budget for the commission.

C.34:15C-13 Rules, regulations.

16. The commission shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of this act.

C.34:15C-14 Needs-related payments.

17. a. Not more than 25% of the funds expended in the State under Title III of the "Job Training Partnership Act," Pub.L.97-300 (29 U.S.C. § 1651 et seq.) shall be used to provide needs-related payments as defined in section 314 of that act (29 U.S.C. § 1661e). Each individual who applies to receive or is otherwise given consideration to receive training under Title III of the "Job Training Partnership Act," Pub.L.97-300 (29 U.S.C. § 1651 et seq.) shall be notified of the availability of the needs-related payments.

b. In providing the needs-related payments, priority shall be given to any individual who:

- (1) Is eligible to receive needs-related payments under that act; and
- (2) Is qualified to receive a trade readjustment allowance pursuant to section 231 of Title II of Pub.L.93-618 (19 U.S.C. § 2291), but is not receiving the allowance because moneys are not available under that act.

If an individual receives needs-related payments for a given period of time pursuant to this subsection, and a trade readjustment allowance later becomes retroactively available for the same time period, a portion of the allowance not greater than the amount given to the individual in needs-related payments may be reimbursed to the State, if permitted by law.

c. A provision of this section shall not apply to the extent that it results in any reduction of the total amount of federal funds received by the State.

C.34:15C-15 Private industry council for service delivery area; membership, duties, certification.

18. a. There shall be a private industry council for each service delivery area. Each service delivery area established by the Governor shall have the same boundaries as the labor market area of which it is a part, except in cases where the boundaries are different because

the Governor is required, pursuant to section 101 of Pub.L.97-300 (29 U.S.C. § 1511), to approve a request to be a service delivery area made by a unit of general local government with a population of 200,000 or more, or a consortium of contiguous units of general local government with an aggregate population of 200,000 or more which serves a substantial part, but not all, of the labor market area.

b. Each private industry council shall be in conformity with section 102 of Pub.L.97-300 (29 U.S.C. § 1512) and shall consist of:

(1) Representatives of the private sector, who shall constitute a majority of the membership of the council and who shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibility; and

(2) Representatives of organized labor, rehabilitation agencies, community-based organizations, economic development agencies, the public employment service and educational agencies which are representative of all educational agencies in the service delivery area.

The chairman of the council shall be selected from among members of the council who are representative of the private sector.

c. Members of the council shall be appointed from among individuals nominated by appropriate organizations in accordance with section 102 of Pub.L.97-300 (29 U.S.C. § 1512). If there is only one unit of general local government in the service delivery area with experience in administering job training programs, the chief elected official of that unit shall determine the initial number of members on the council and shall appoint the members. If there are two or more units in the service delivery area with experience in administering job training programs, the chief elected officials of those units shall, in accordance with an agreement entered into by all of those units, determine the initial number of members on the council and appoint the members. In the absence of an agreement by all of the units, the Governor shall determine the initial number of members on the council and appoint the members. Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. A vacancy in the membership of the council shall be filled in the same manner as the original appointment. A member of the council may be removed for cause in accordance with procedures established by the council.

d. The Governor shall certify a private industry council if he determines that its composition and appointments are consistent

with the provisions of this section and Pub.L.97-300 (29 U.S.C. § 1501 et seq.). The certification shall be made or denied not later than 30 days after the date on which a list of members and necessary supporting documentation are submitted to the Governor. The council shall, within 30 days after its certification by the Governor, be convened by the official or officials who made the appointments to the council under subsection c. of this section. The council shall meet at least four times per year, with meetings open to attendance by interested persons pursuant to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

e. Each private industry council established pursuant to this act shall:

(1) Provide policy guidance for, and exercise oversight with respect to, all employment and training programs within its labor market area in partnership with the unit or units of general local government within the area. To provide the policy guidance and oversight, the council shall review and evaluate the programs and, as appropriate, make recommendations to the Governor, the Legislature, or any State agency or local governing entity involved in the funding or administration of the programs. The recommendations shall be based primarily on how effective each program is in meeting relevant performance standards, including standards regarding the cost and quality of training and the characteristics of participants. The council shall provide any planning, policy guidance or oversight with respect to employment and training programs in accordance with any agreement entered into pursuant to subsection g. of section 9 of this act by the commission and the department administering or funding the programs.

(2) Establish skill level and competency guidelines consistent with the provisions of this act to be used as a basis for the selection of skill training programs and competency curriculum in its service delivery area;

(3) Assist in the development, approval and submission of the State employment services operating plan for its labor market area;

(4) Prepare and approve a budget for itself in accordance with the job training plan adopted pursuant to Pub.L.97-300 (29 U.S.C. § 1501 et seq.);

(5) Submit to the State Employment and Training Commission, by September 1 of each year, an annual report covering the immedi-

ately preceding program period of July 1 to June 30. The report shall contain:

(a) An account of activities during the program period, including all coordination activities undertaken by the council to eliminate unnecessary duplication of services and foster a unified delivery system;

(b) Information describing the extent to which the activities failed or succeeded in meeting relevant performance standards; and

(c) The skill level and competency guidelines to be used in the upcoming year;

(6) Fulfill any other role or function of a private industry council required pursuant to Pub.L.97-300 (29 U.S.C. § 1501 et seq.); and

(7) Assume any additional responsibilities assigned to it by the Governor in consultation with the State Employment and Training Commission.

f. In order to carry out its functions under this act, a private industry council may:

(1) Hire staff;

(2) Incorporate as a non-profit or other entity;

(3) Act, under agreement with the chief elected official or officials, as the administrative entity for employment and training programs funded within the labor market area; and

(4) Seek, obtain and expend additional funding for the programs from public and private sources.

g. Funds provided or administered by a private industry council shall not be used to duplicate facilities or services available in the council's service delivery area, with or without reimbursement, from federal, State or local sources, unless it is demonstrated that alternative services or facilities would be more effective or more likely to achieve the service delivery area's performance goals. Appropriate educational agencies and services available for participants living in the service delivery area shall be utilized unless the administrative entity demonstrates that alternative agencies or services would be more effective and have greater potential to enhance the participants' continued occupational and career growth.

h. No member of a private industry council established pursuant to this act shall cast a vote on the provision of services by that

member or any organization which that member directly represents or vote on any matter which would provide direct financial benefit to that member. Private industry councils shall be subject to policies concerning conflict of interest and nepotism prescribed by the Commissioner of Labor.

i. The Commissioner of Labor, in conjunction with the State Employment and Training Commission, shall establish criteria for awarding pilot grants to private industry councils to assist them in implementing the purposes of this section. The commissioner shall expend not less than 85% of any funds appropriated to effectuate the purposes of this subsection for the pilot grants and not more than 15% of the funds for the costs of contracting, monitoring, evaluating and auditing the pilot grants. The commissioner shall report to the Governor and the Legislature and to the State Employment and Training Commission on the results of the evaluation of the pilot grants.

C.34:15C-16 Youth 2000 Leadership Conference, duties.

19. The Commissioner of Education, in consultation with the Commissioners of Labor and Community Affairs, the Chancellor of Higher Education and the Chairperson of the State Employment and Training Commission shall convene a Youth 2000 Leadership Conference. The conference shall:

- a. Address the future needs of the State's youth, with particular emphasis on at-risk youth;
- b. Develop a broad outline for future steps to be taken cooperatively among the departments and the State Employment and Training Commission to deal with at-risk youth and the need for alternative learning systems; and
- c. Develop proposals for innovative pilot programs to assist youth in becoming better prepared for employment.

20. There is appropriated from the General Fund to the State Employment and Training Commission \$200,000.

21. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 294

AN ACT to provide for the removal of tenants and other persons from rented residential premises under certain circumstances involving certain violations of the "New Jersey Code of Criminal Justice," N.J.S.2C:1-1 et seq. and amending P.L.1974, c.49.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read as follows:

C.2A:18-61.1 Removal of residential tenants; grounds.

2. No lessee or tenant or the assigns, under-tenants or legal representatives of such lessee or tenant may be removed by the county district court or the Superior Court from any house, building, mobile home or land in a mobile home park or tenement leased for residential purposes, other than owner-occupied premises with not more than two rental units or a hotel, motel or other guest house or part thereof rented to a transient guest or seasonal tenant, except upon establishment of one of the following grounds as good cause:

a. The person fails to pay rent due and owing under the lease whether the same be oral or written;

b. The person has continued to be, after written notice to cease, so disorderly as to destroy the peace and quiet of the occupants or other tenants living in said house or neighborhood;

c. The person has willfully or by reason of gross negligence caused or allowed destruction, damage or injury to the premises;

d. The person has continued, after written notice to cease, to substantially violate or breach any of the landlord's rules and regulations governing said premises, provided such rules and regulations are reasonable and have been accepted in writing by the tenant or made a part of the lease at the beginning of the lease term;

e. The person has continued, after written notice to cease, to substantially violate or breach any of the covenants or agreements contained in the lease for the premises where a right of reentry is reserved to the landlord in the lease for a violation of such covenant or agreement, provided that such covenant or agreement is reasonable and was contained in the lease at the beginning of the lease term;

f. The person has failed to pay rent after a valid notice to quit

and notice of increase of said rent, provided the increase in rent is not unconscionable and complies with any and all other laws or municipal ordinances governing rent increases;

g. The landlord or owner (1) seeks to permanently board up or demolish the premises because he has been cited by local or State housing inspectors for substantial violations affecting the health and safety of tenants and it is economically unfeasible for the owner to eliminate the violations; (2) seeks to comply with local or State housing inspectors who have cited him for substantial violations affecting the health and safety of tenants and it is unfeasible to so comply without removing the tenant; simultaneously with service of notice of eviction pursuant to this clause, the landlord shall notify the Department of Community Affairs of the intention to institute proceedings and shall provide the department with such other information as it may require pursuant to rules and regulations. The department shall inform all parties and the court of its view with respect to the feasibility of compliance without removal of the tenant and may in its discretion appear and present evidence; (3) seeks to correct an illegal occupancy because he has been cited by local or State housing inspectors and it is unfeasible to correct such illegal occupancy without removing the tenant; or (4) is a governmental agency which seeks to permanently retire the premises from the rental market pursuant to a redevelopment or land clearance plan in a blighted area. In those cases where the tenant is being removed for any reason specified in this subsection, no warrant for possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with;

h. The owner seeks to retire permanently the residential building or the mobile home park from residential use or use as a mobile home park, provided this subsection shall not apply to circumstances covered under subsection g. of this section;

i. The landlord or owner proposes, at the termination of a lease, reasonable changes of substance in the terms and conditions of the lease, including specifically any change in the term thereof, which the tenant, after written notice, refuses to accept; provided that in cases where a tenant has received a notice of termination pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a protected tenancy status pursuant to section 9 of the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), the landlord or owner shall have the burden of proving that any change in the terms and conditions of the lease,

rental or regulations both is reasonable and does not substantially reduce the rights and privileges to which the tenant was entitled prior to the conversion;

j. The person, after written notice to cease, has habitually and without legal justification failed to pay rent which is due and owing;

k. The landlord or owner of the building or mobile home park is converting from the rental market to a condominium, cooperative or fee simple ownership of two or more dwelling units or park sites, except as hereinafter provided in subsection l. of this section. Where the tenant is being removed pursuant to this subsection, no warrant for possession shall be issued until this act has been complied with. No action for possession shall be brought pursuant to this subsection against a senior citizen tenant or disabled tenant with protected tenancy status pursuant to the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), as long as the agency has not terminated the protected tenancy status or the protected tenancy period has not expired;

l. (1) The owner of a building or mobile home park, which is constructed as or being converted to a condominium, cooperative or fee simple ownership, seeks to evict a tenant or sublessee whose initial tenancy began after the master deed, agreement establishing the cooperative or subdivision plat was recorded, because the owner has contracted to sell the unit to a buyer who seeks to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing. However, no action shall be brought against a tenant under paragraph (1) of this subsection unless the tenant was given a statement in accordance with section 6 of P.L.1975, c.311 (C.2A:18-61.9);

(2) The owner of three or less condominium or cooperative units seeks to evict a tenant whose initial tenancy began by rental from an owner of three or less units after the master deed or agreement establishing the cooperative was recorded, because the owner seeks to personally occupy the unit, or has contracted to sell the unit to a buyer who seeks to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing;

(3) The owner of a building of three residential units or less seeks to personally occupy a unit, or has contracted to sell the residential unit to a buyer who wishes to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing;

m. The landlord or owner conditioned the tenancy upon and in consideration for the tenant's employment by the landlord or owner

as superintendent, janitor or in some other capacity and such employment is being terminated;

n. The person has been convicted of or pleaded guilty to, or if a juvenile, has been adjudicated delinquent on the basis of an act which if committed by an adult would constitute an offense under the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. involving the use, possession, manufacture, dispensing or distribution of a controlled dangerous substance, controlled dangerous substance analog or drug paraphernalia within the meaning of that act within or upon the leased premises or the building or complex of buildings and land appurtenant thereto, or the mobile home park, in which those premises are located, and has not in connection with his sentence for that offense either (1) successfully completed or (2) been admitted to and continued upon probation while completing, a drug rehabilitation program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who has been so convicted or has so pleaded, or otherwise permits such a person to occupy those premises for residential purposes, whether continuously or intermittently, except that this subsection shall not apply to a person who harbors or permits a juvenile to occupy the premises if the juvenile has been adjudicated delinquent upon the basis of an act which if committed by an adult would constitute the offense of use or possession under the said act.

o. The person has been convicted of or pleaded guilty to, or if a juvenile, has been adjudicated delinquent on the basis of an act which if committed by an adult would constitute an offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats against the landlord, a member of the landlord's family or an employee of the landlord; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who has been so convicted or has so pleaded, or otherwise permits such a person to occupy those premises for residential purposes, whether continuously or intermittently.

p. The person has been found, by a preponderance of the evidence, liable in a civil action for removal commenced under this act for an offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic threats against the landlord, a member of the landlord's family or an employee of the landlord, or under the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use, possession, manufacture, dispensing or distribution of a controlled dangerous substance, controlled dangerous substance

analog or drug paraphernalia within the meaning of that act within or upon the leased premises or the building or complex of buildings and land appurtenant thereto, or the mobile home park, in which those premises are located, and has not in connection with his sentence for that offense either (1) successfully completed or (2) been admitted to and continued upon probation while completing a drug rehabilitation program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who committed such an offense, or otherwise permits such a person to occupy those premises for residential purposes, whether continuously or intermittently, except that this subsection shall not apply to a person who harbors or permits a juvenile to occupy the premises if the juvenile has been adjudicated delinquent upon the basis of an act which if committed by an adult would constitute the offense of use or possession under the said "Comprehensive Drug Reform Act of 1987."

2. Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended to read as follows:

C.2A:18-61.2 Removal of residential tenants; required notice; contents; service.

3. No judgment of possession shall be entered for any premises covered by section 2 of this act, except in the nonpayment of rent under subsection a. or f. of section 2, unless the landlord has made written demand and given written notice for delivery of possession of the premises. The following notice shall be required:

a. For an action alleging disorderly conduct under subsection b. of section 2, or injury to the premises under subsection c. of section 2 or any grounds under subsection m., n., o. or p. of section 2, three days' notice prior to the institution of the action for possession;

b. For an action alleging continued violation of rules and regulations under subsection d. of section 2, or substantial breach of covenant under subsection e. of section 2, or habitual failure to pay rent, one month's notice prior to the institution of the action for possession;

c. For an action alleging any grounds under subsection g. of section 2, three months' notice prior to the institution of the action;

d. For an action alleging permanent retirement under subsection h. of section 2, 18 months' notice prior to the institution of the action and, provided that, where there is a lease in effect, no action may be instituted until the lease expires;

e. For an action alleging refusal of acceptance of reasonable lease changes under subsection i. of section 2, one month's notice prior to institution of action;

f. For an action alleging any grounds under subsection l. of section 2, two months' notice prior to the institution of the action and, provided that where there is a written lease in effect no action shall be instituted until the lease expires;

g. For an action alleging any grounds under subsection k. of section 2, three years' notice prior to the institution of action, and provided that where there is a written lease in effect, no action shall be instituted until the lease expires.

The notice in each of the foregoing instances shall specify in detail the cause of the termination of the tenancy and shall be served either personally upon the tenant or lessee or such person in possession by giving him a copy thereof, or by leaving a copy thereof at his usual place of abode with some member of his family above the age of 14 years, or by certified mail; if the certified letter is not claimed, notice shall be sent by regular mail.

C.2C:35-16.1 Notification to landlord of offenses committed by tenant under "Comprehensive Drug Reform Act of 1987."

3. The court in which any conviction is had or any plea of guilty entered to a charge of an offense under the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use, possession, manufacture, dispensing or distribution of a controlled dangerous substance, controlled dangerous substance analog or drug paraphernalia, or in which any adjudication of juvenile delinquency is made on the basis of an act which if committed by an adult would constitute such an offense, shall ascertain whether the offense or act took place upon leased residential premises in which the defendant was a resident at the time of the offense or act, and upon ascertaining that it did so occur shall cause notice of the conviction, plea or adjudication to be forthwith transmitted to the owner of those premises or his appropriate agent.

4. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 295

AN ACT concerning health service corporations, and amending P.L.1945, c.132, P.L.1985, c.236 and P.L.1988, c.71.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.1988, c.71 (C.17:48E-17.1) is amended to read as follows:

C.17:48E-17.1 Two special contingent surplus accounts.

5. a. Every health service corporation shall accumulate and maintain during each calendar year two separate special contingent surplus accounts, one for its individual contracts and one for its other activities.

b. Every health service corporation shall accumulate and maintain a special contingent surplus for each account over and above its reserves and liabilities at the rate of 2% annually of its net premium income until that surplus is not less than \$1,250,000.00 in each account. The special contingent surplus in each account shall be accumulated to and maintained at an amount not less than 2½% of the net premium income received during that year, as determined by reference to the statement of financial condition filed pursuant to section 36 of P.L.1985, c.236 (C.17:48E-36). The commissioner may increase the amount of special contingent surplus which shall be maintained pursuant to this subsection to an amount not exceeding 5% of the net premium income received during the preceding year. No method of accumulation as herein provided shall be deemed to supersede any provision of subsection c. of this section. In the case of any health service corporation which was created by the merger of a medical service corporation established pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.) and a hospital service corporation created pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), in calculating the proportional allocation of any deficit or surplus between group and individual contracts at the time the separate surplus accounts are created, the corporation shall allocate based on its determination of the proportional contributions of individual and group business to any surplus or deficit during the period between January 1 of the calendar year in which the health service corporation commenced doing business as a health service corporation until the effective date of P.L.1988, c.71. The assumptions upon which the allocations are based shall be certified as reasonable by an independent actuary.

c. Every health service corporation established as of the effective date of P.L.1988, c.71 shall file a plan with the commissioner for meeting the surplus amount requirements established by subsection b. of this section and which establishes a time period within which the corporation will meet those requirements. The time period established in the plan shall not exceed four years. The plan shall be subject to the approval of the commissioner, who shall approve it within 60 days after it has been filed if he believes it to be reasonable. If the commissioner does not approve a plan filed under this subsection within 60 days of its submission, he shall issue findings and conclusions with respect to the reasonableness of the plan.

d. Whenever the special contingent surplus for either group contracts or individual contracts is an amount which is less than $2\frac{1}{2}\%$ to 5% of the earned premium of the group or individual business, as the case may be, at the discretion of the commissioner, the health service corporation shall, without regard to any other rate increase provided for or required by law or any rate increase which may have previously been taken pursuant to this subsection, and with the approval of the commissioner, commence within 90 days the implementation of rate increases for the group or individual contracts, as the case may be, which increases shall be sufficient to cause the amount of the special contingent surplus to equal an amount which is not less than 5% of the earned premium of the group or individual business within one year of the increase.

e. In no event shall the health service corporation be required to augment the surplus account allocable to individual contracts with any monies from the surplus account of group contracts, or from any corporate assets or any other source other than net earnings from individual contracts, nor shall it be required to augment the surplus account allocable to group contracts with any monies from the surplus account of individual contracts or from any corporate assets or any other source other than net earnings from group contracts, except that beginning with the effective date of P.L.1988, c.71 and until the special contingent surplus account which is applicable to individual contracts has reached the statutorily prescribed amount or no longer than six years following the effective date of P.L.1988, c.71, whichever is earlier, in the event that the statutory reserves of the individual surplus account is in a deficit position, as determined by the commissioner, a loan, without interest, from the group surplus account, if it is not in a deficit position, shall be made to the individual surplus account.

f. Nothing in this section nor in P.L.1985, c.236 (C.17:48E-1 et seq.) shall abrogate the responsibilities of corporate officers with regard to the reporting of financial condition pursuant to section 36 of P.L.1985, c.236 (C.17:48E-36), nor shall any provision of P.L.1988, c.71 or P.L.1985, c.236 (C.17:48E-1 et seq.) be construed to limit the authority of the commissioner to require compliance with statutory capital, surplus or reserve requirements for a subsidiary or affiliate of a health service corporation, or for any reinsurance activities to be undertaken by a health service corporation.

2. Section 41 of P.L.1985, c.236 (C.17:48E-41) is amended to read as follows:

C.17:48E-41 Health service corporation, exemption from taxes.

41. A health service corporation subject to the provisions of this act is hereby declared to be a charitable and benevolent institution and all of its funds shall be exempt from every State, county, district, municipal and school tax other than taxes on real estate and equipment and taxes on premiums pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.) as provided by section 16 of that act (C.54:18A-9).

3. Section 16 of P.L.1945, c.132 (C.54:18A-9) is amended to read as follows:

C.54:18A-9 Not to apply to fraternal beneficiary society, insurance company.

16. a. This act shall not apply to any fraternal beneficiary society. For the purposes of this act, "insurance company" shall include a corporation, and any person, partnership or unincorporated association required as an insurer to procure from the Commissioner of Insurance the certificate prescribed by section 1 of an act entitled "An act to regulate the transaction of the business of insurance by individuals, partnerships and unincorporated associations in this State" approved July 11, 1939 (P.L.1939, c.188; C.17:49-1), or under any other statute now in force or hereafter enacted, engaging in any kind or kinds of business specified in R.S.17:17-1, subject to the insurance laws of this State; provided, however, that no company or society, which by its act or certificate of incorporation has for its object the assistance of sick, needy or disabled members, the defraying of funeral expenses of deceased members and the provision for the wants of the surviving spouses and families of members after death, shall be deemed an insurance company within the purview of this act.

b. For the purposes of P.L.1945, c.132 (C.54:18A-1 et seq.), "insurance company" shall include, beginning January 1, 1992, a health

service corporation established pursuant to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.), with respect to its experience rated health insurance. An "insurance company" shall also include any life, accident, or health insurance company in which a health service corporation owns stock, controls, or otherwise becomes affiliated with, as provided in subsection e. of section 3 of P.L.1985, c.236 (C.17:48E-3).

4. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 296

AN ACT concerning the county clerks and court consolidation, supplementing Title 2A of the New Jersey Statutes and repealing N.J.S.2A:2-15.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.2A:5A-1 Continuation of county clerk as officer.

1. The county clerk shall continue as an elected constitutional officer in the executive branch of county government.

C.2A:5A-2 Position of deputy clerk of the Superior Court created.

2. There is created the position of deputy clerk of the Superior Court in each county of this State in addition to the position of the county clerk.

C.2A:5A-3 County clerk, eligibility to apply for position of deputy clerk of the Superior Court.

3. a. Every county clerk shall be eligible, for a period of 30 days following the effective date of this act, to apply for the position of deputy clerk of the Superior Court and to resign as county clerk. Any county clerk who applies to become a deputy clerk of the Superior Court as provided herein and who resigns as county clerk shall become a deputy clerk of the Superior Court on the date of his resignation in the county in which he is serving at the time of his resignation.

b. The deputy clerk of the Superior Court shall be an employee of the judiciary and the position of deputy clerk of the Superior Court shall be included in the budget of the State Judiciary. Any county

clerk becoming a deputy clerk of the Superior Court pursuant to this section shall be in the permanent service of the Superior Court with tenure and shall retain any accumulated sick leave, longevity or vacation time that he has earned as county clerk.

C.2A:5A-4 County clerk's office, transferred to supervision of Superior Court.

4. a. All employees of each county clerk's office performing judicial functions shall be transferred to the supervision of the Superior Court and shall cease to be employees of the county clerk's office on the effective date of this act.

b. All judicial responsibilities of the county clerk's office shall become responsibilities of the Superior Court on the effective date of this act.

c. No employee transferred pursuant to the provisions of this act shall be deprived of any tenure rights or any right or protection provided by Title 11A of the New Jersey Statutes or any pension law or retirement system.

C.2A:5A-5 Responsibilities of deputy clerk.

5. The deputy clerk of the Superior Court in each county shall be responsible to the assignment judge and trial court administrator for the management and budget of all case processing responsibilities for the Civil Division, General Equity Division and Special Civil Part and whatever other responsibilities may be assigned to the position of deputy clerk.

C.2A:5A-6 Office of county register not affected.

6. Notwithstanding any other provision of this act, the office of county register of deeds and mortgages in those counties in which the office of register of deeds and mortgages has been established shall not be affected by the implementation of this act.

Repealer.

7. N.J.S.2A:2-15 is repealed.

8. This act shall take effect upon the enactment into law of P.L.____, c.____ (now pending before the Legislature as either Senate Bill 1620 of 1988 or Assembly Bill 2419 of 1988).

Approved January 12, 1990.

CHAPTER 297

AN ACT concerning the examination of animals by local boards of health and amending R.S.26:4-86.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.26:4-86 is amended to read as follows:

Examination of animals by local board.

26:4-86. The local board or the duly authorized agent of such board, within its jurisdiction, shall be permitted by the owner or person in charge of a dog, cat or other animal which has attacked or bitten a person, to examine the animal at any time, and daily if desired, within a period of 10 days after the animal has attacked or bitten a person, to determine whether the animal shows symptoms of rabies.

If the animal dies within the 10 day confinement period or if the owner or person in charge of the animal elects to destroy the animal at any time during the confinement period, the local board may order a laboratory examination for rabies to be performed.

No person shall refuse, obstruct, or interfere with the local board in making any examination authorized pursuant to this section.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 298

AN ACT concerning the selling, loaning, or giving of identification documents to present false information for motor vehicle licenses and registrations and amending R.S.39:3-37.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.39:3-37 is amended to read as follows:

Falsifying application or examination; punishment; revocation of registration or license.

39:3-37. A person who gives a fictitious name or address or makes any other intentional misstatement of a material fact in his appli-

cation for registration of a motor vehicle or driver's license or in a preliminary application, examination or proceeding, or a person who knowingly sells, loans or gives an identification document to another person for the purpose of aiding that person to obtain a driver's license or registration certificate for which that person is not qualified, shall be subject to a fine of not less than \$200.00 or more than \$500.00, or imprisonment for not more than six months or both, at the discretion of the court. The director shall, upon proper evidence not limited to a conviction, revoke the registration of the motor vehicle or driver's license of a person who violates this section for a period of not less than six months or more than two years.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 299

AN ACT concerning certain municipal services for qualified private communities and supplementing Title 40 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.40:67-23.2 Definitions.

1. For the purposes of this act:

a. "Condominium" means the form of real property ownership provided for under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.);

b. "Cooperative" means a housing corporation or association wherein the holder of a share or membership interest in the corporation or association is entitled to possess and occupy, for dwelling purposes, a house, apartment, or other unit of housing owned by the corporation or association, or to purchase a unit of housing constructed or erected by the corporation or association;

c. "Fee simple community" means a private community which consists of individually owned lots or units and provides for common or shared elements or interests in real property;

d. "Horizontal property regime" means the form of real property

ownership provided for under the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

e. "Qualified private community" means a residential condominium, cooperative, fee simple community, or horizontal property regime, the residents of which do not receive any tax abatement or tax exemption related to its construction, comprised of a community trust or other trust device, condominium association, homeowners' association, or council of coowners, wherein the cost of maintaining roads and streets and providing essential services is paid for by a not-for-profit entity consisting exclusively of unit owners within the community. No apartment building or garden apartment complex owned by an individual or entity that receives monthly rental payments from tenants who occupy the premises shall be considered a qualified private community.

C.40:67-23.3 Municipality to reimburse private community for services or provide services.

2. a. Except as otherwise provided in subsection b. of this section, the governing body of every municipality shall reimburse a qualified private community for the following services as provided in sections 4 and 5 of this act or provide the following services within a qualified private community in the same fashion as the municipality provides these services on public roads and streets:

(1) Removal of snow, ice and other obstructions from the roads and streets;

(2) Lighting of the roads and streets, to the extent of payment for the electricity required, but not including the installation or maintenance of lamps, standards, wiring or other equipment; and

(3) Collection of leaves, recyclable materials and garbage along the roads and streets.

b. Nothing in this act shall require a municipality to operate any municipally owned or leased vehicles or other equipment, or to provide any of the services enumerated in subsection a. of this section, upon, along or in relation to any road or street in a qualified private community which either (1) is not accepted for dedication to public use or (2) does not meet all municipal standards and specifications for such dedication, except for width.

C.40:67-23.4 Private community to pay insurance riders.

3. A qualified private community shall be required to pay the cost of any insurance riders required by the municipality to enable mu-

municipal vehicles to operate on private roads and streets within the qualified private community.

C.40:67-23.5 Use of municipal reimbursement to pay for services.

4. a. As provided in section 5 of this act and in lieu of providing some or all of the services set forth in section 2 of this act, a municipality shall enter into a written agreement to annually reimburse the qualified private community in an amount not to exceed the cost that would be incurred by the municipality in providing those services directly.

b. The amount to be reimbursed to the qualified private community shall be used by the qualified private community to pay for the service which the municipality chooses not to provide, and that amount shall be the actual cost to the qualified private community of providing that service, but not exceeding the amount which the municipality would have expended on that service if it were provided directly by the municipality to the qualified private community.

c. An agreement entered into pursuant to this section shall provide for an accounting by the qualified private community of the use of the money paid over to it by the municipality, and for the refunding to the municipality of any payments in excess of the amounts actually expended or contractually committed by the qualified private community during the accounting period in order to provide for the services covered by the agreement.

C.40:67-23.6 Schedule for reimbursement for portion of cost.

5. Pursuant to a reimbursement agreement entered into in lieu of providing some or all of the services set forth in section 2 of this bill, in each of the first four local budget years beginning on and after the operative date of this act, the municipality shall reimburse the qualified private community for a portion of the cost of providing services in each local budget year in the following manner:

1991	20% of the total cost of services in 1991
1992	40% of the total cost of services in 1992
1993	60% of the total cost of services in 1993
1994	80% of the total cost of services in 1994

The total cost of services in each local budget year shall be determined pursuant to section 4 of this act. In local budget year 1995 and for each local budget year thereafter, the municipality shall either provide the services pursuant to section 2 of this act or enter into a written agreement to annually reimburse the qualified private community in full pursuant to section 4 of this act.

C.40:67-23.7 Acceptance for public use if conforms to municipal specifications.

6. A municipality shall be required to accept for dedication for public use, by a qualified private community, any road or street within the community that conforms to municipal specifications for public roads and streets.

C.40:67-23.8 Additional services; repeal of ordinance; prior agreements to remain in effect.

7. Nothing in this act shall prevent a municipality from providing additional services, that primarily serve public purposes, to the residents of a qualified private community. The governing body of any municipality which prior to the operative date of this act has enacted an ordinance providing all the services or reimbursement provided by this act to a qualified private community may repeal the ordinance and implement the provisions of this act. Nothing in this act shall be construed as abrogating or superseding any agreement in effect pursuant to such an ordinance prior to the operative date of this act.

8. This act shall take effect immediately and shall remain in-operative until January 1, 1991.

Approved January 12, 1990.

CHAPTER 300

AN ACT concerning the professional conduct of certain health care professionals and revising parts of statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.45:9-19.4 Short title.

1. This act shall be known and may be cited as the "Professional Medical Conduct Reform Act of 1989."

2. Section 1 of P.L.1983, c.247 (C.26:2H-12.2) is amended to read as follows:

C.26:2H-12.2 Written notice to Medical Practitioner Review Panel; circumstances.

1. A health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or a health maintenance organization operating pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) shall notify the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8) in writing if a practitioner who is em-

ployed by, under contract to render professional services to, or has privileges at that health care facility or health maintenance organization:

- a. voluntarily resigns from the staff if the facility or health maintenance organization is reviewing the practitioner's conduct or patient care or, through any member of the medical or administrative staff, has expressed an intention to do so;
- b. voluntarily relinquishes any partial privilege to perform a specific procedure if the facility or health maintenance organization is reviewing the practitioner's conduct or patient care or, through any member of the medical or administrative staff, has expressed an intention to do so;
- c. has full or partial privileges summarily or temporarily revoked or suspended, permanently reduced, suspended or revoked, has been discharged from the staff or has had a contract to render professional services terminated or rescinded for reasons relating to the practitioner's incompetency, misconduct or impairment;
- d. agrees to the placement of conditions or limitations on the exercise of clinical privileges or practice within the health care facility or health maintenance organization including, but not limited to, second opinion requirements, nonroutine concurrent or retrospective review of admissions or care, nonroutine supervision by one or more members of the staff, or the completion of remedial education or training;
- e. is granted a leave of absence pursuant to which the practitioner may not exercise clinical privileges or practice within the health care facility or health maintenance organization if the reasons provided in support of the leave relate to any physical, mental or emotional condition or drug or alcohol use, which might impair the practitioner's ability to practice with reasonable skill and safety; or
- f. is a party to a medical malpractice liability suit, in which the health care facility or health maintenance organization is also a party, and in which there is a settlement, judgment or arbitration award.

The form of notification shall be prescribed by the Commissioner of Health, shall contain such information as may be required by the board and the review panel and shall be made within seven days of the date of the action, settlement, judgment or award.

A health care facility or health maintenance organization which

fails to provide such notice or shall fail to cooperate with such request for information by the board or the review panel shall be subject to such penalties as the State Department of Health may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

A health care facility or health maintenance organization, or any employee thereof, which provides information to the board, the review panel, or the Department of Health regarding a practitioner pursuant to the provisions of this section or section 3 of P.L.1989, c.300 (C.26:2H-12.2a), is not liable for damages for providing or reporting the information unless the health care facility or health maintenance organization, or employee, knowingly provided false information.

For the purposes of this section and section 3 of P.L.1989, c.300 (C.26:2H-12.2a), "practitioner" means a person licensed to practice: medicine and surgery under chapter 9 of Title 45 of the Revised Statutes or a medical resident or intern; or podiatry under chapter 5 of Title 45 of the Revised Statutes.

C.26:2H-12.2a Maintenance of records of complaints, disciplinary actions.

3. a. A health care facility or health maintenance organization shall maintain all records of all complaints about, and disciplinary proceedings or actions against, a practitioner who has an affiliation with the health care facility or health maintenance organization. The health care facility or health maintenance organization shall retain the information for a period of seven years and make the records, including any information the health care facility or health maintenance organization has pertaining to records maintained on the practitioner prior to the effective date of P.L.1989, c.300 (C.45:9-19.4 et al.), available to the State Board of Medical Examiners, the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8) and the Department of Health, upon request.

b. A health care facility or health maintenance organization shall maintain for a period of four years all records relating to its mortality, morbidity, complication, infection and readmission experience and shall make the records available to the board, the review panel and the Department of Health, upon request.

c. A health care facility or health maintenance organization which fails to maintain the records required pursuant to this section shall be subject to such penalties as the Department of Health shall

determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

4. Section 2 of P.L.1983, c.247 (C.17:30D-17) is amended to read as follows:

C.17:30D-17 Insurer to notify Medical Practitioner Review Panel of malpractice settlement, judgment, award.

2. a. Any insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall notify the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8) in writing of any medical malpractice claim settlement, judgment or arbitration award involving any practitioner licensed by the State Board of Medical Examiners and insured by the insurer or insurance association. Any practitioner licensed by the board who is not covered by medical malpractice liability insurance issued in this State, who has coverage through a self-insured health care facility or health maintenance organization, or has medical malpractice liability insurance which has been issued by an insurer or insurance association from outside the State shall notify the review panel in writing of any medical malpractice claim settlement, judgment or arbitration award to which the practitioner is a party. The review panel or board, as the case may be, shall not presume that the judgment or award is conclusive evidence in any disciplinary proceeding and the fact of a settlement is not admissible in any disciplinary proceeding.

In any malpractice action against a practitioner, a settlement prohibiting a complaint against the practitioner or the providing of information to the review panel or board concerning the underlying facts or circumstances of the action is void and unenforceable.

b. An insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall notify the review panel in writing of any termination or denial of coverage to a practitioner or surcharge assessed on account of the practitioner's practice method or medical malpractice claims history.

c. The form of notification shall be prescribed by the Commissioner of Insurance, shall contain such information as may be required by the board and the review panel and shall be made within seven days of the settlement, judgment or award or the final action for a termination or denial of, or surcharge on, the medical malpractice liability insurance. Upon request of the board, the review panel or the commissioner, an insurer or insurance association shall provide all records regarding the defense of a malpractice claim, the pro-

cessing of the claim and the legal proceeding; except that nothing in this subsection shall be construed to authorize disclosure of any confidential communication which is otherwise protected by statute, court rule or common law.

An insurer or insurance association, or any employee thereof, shall be immune from liability for furnishing information to the review panel and the board in fulfillment of the requirements of this section unless the insurer or insurance association, or any employee thereof, knowingly provided false information.

d. An insurer, insurance association or practitioner who fails to notify the review panel as required pursuant to this section shall be subject to such penalties as the Commissioner of Insurance may determine pursuant to section 12 of P.L.1975, c.301 (C.17:30D-12). In addition to, or in lieu of suspension or revocation, the commissioner may assess a fine which shall not exceed \$1,000 for the first offense and \$2,000 for the second and each subsequent offense, which may be recovered in a summary proceeding, brought in the name of the State in a court of competent jurisdiction pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

e. A practitioner who fails to notify the review panel as required pursuant to this section shall be subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21 to 45:1-22 and 45:1-25).

f. An insurer or insurance association shall make available to the review panel or the board, upon request, any records of termination or denial of coverage to a practitioner or surcharge assessed on account of the practitioner's practice method or medical malpractice claims history, which occurred up to five years prior to the effective date of P.L.1989, c.300 (C.45:9-19.4 et al.).

g. For the purposes of this section, "practitioner" means a person licensed to practice: medicine and surgery under chapter 9 of Title 45 of the Revised Statutes or a medical resident or intern; or podiatry under chapter 5 of Title 45 of the Revised Statutes.

C.45:9-19.5 Notification by practitioner of suspected malpractice; required.

5. a. A physician or medical resident or intern, or podiatrist, hereinafter referred to as a "practitioner," shall promptly notify the State Board of Medical Examiners if that practitioner is in possession of information which reasonably indicates that another practitioner has demonstrated an impairment, gross incompetence or un-

professional conduct which would present an imminent danger to an individual patient or to the public health, safety or welfare.

A practitioner who fails to so notify the board is subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21 to 45:1-22 and 45:1-25).

b. There shall be no private right of action against a practitioner for failure to comply with the reporting requirements of this section.

c. A practitioner who notifies the board about a practitioner who is impaired or grossly incompetent or who has demonstrated unprofessional conduct pursuant to this section is not liable for damages to any person for notifying the board unless the practitioner knowingly provided false information to the board.

d. Notwithstanding the provisions of this section to the contrary, a practitioner is not required to notify the board about an impaired or incompetent practitioner if he has knowledge of the practitioner's impairment or incompetence as a result of rendering treatment to the practitioner.

C.45:9-19.6 Medical director; requirements, duties.

6. The State Board of Medical Examiners shall employ a full-time medical director to assist the board in carrying out its duties pursuant to Title 45 of the Revised Statutes.

The medical director shall be a physician who is licensed to practice medicine and surgery in the State and who is knowledgeable about, or has clinical experience in, the field of chemical dependency or addiction-oriented psychiatry. The medical director shall receive such compensation as the board shall determine and shall serve at the pleasure of the board.

The duties of the medical director shall include, but are not limited to: reviewing complaints and reports of medical malpractice, impairment, incompetence or unprofessional conduct that are made to the board or the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), by other health care providers and by the public; coordinating and assisting in the investigation of these complaints and reports; and assisting the panel in making its recommendations and the board in making disciplinary determinations regarding a licensee. The medical director shall perform such other duties as the board may require in carrying out its responsibilities under Title 45 of the Revised Statutes.

The medical director also shall serve as the board's liaison to any

licensed health care practitioner treatment program recognized by the board. The board, in conjunction with the medical director, shall establish standards for treatment and procedures for monitoring the progress of a participating practitioner's treatment and for notifying the board when a practitioner fails to comply with the requirements of the treatment program or when a practitioner's impairment may jeopardize or improperly risk the health, safety or life of a patient.

The board and the Division of Consumer Affairs in the Department of Law and Public Safety shall provide such investigative, medical consulting, administrative and clerical support as is necessary to assist the medical director in carrying out his duties.

C.45:9-19.7 Information required on license renewal form.

7. a. In addition to other information required by the State Board of Medical Examiners on the biennial license renewal form, a physician or podiatrist, hereinafter referred to as "practitioner," shall list: the address of all practice locations and the name of any other licensee directly associated with the practice; the name and address of each licensed health care facility and health maintenance organization with which the licensee has an affiliation and the nature of the affiliation; and the name and address of the practitioner's medical malpractice insurer.'

b. A practitioner shall notify the board in writing, within 21 days, of any changes, additions or deletions to the information provided pursuant to subsection a. of this section.

c. In the case of a practitioner who receives his license on or after the effective date of P.L.1989, c.300 (C.45:9-19.4 et al.), the practitioner shall provide the board with the information required pursuant to subsection a. of this section as soon as practicable, but in no case later than 90 days after the practitioner receives his license from the board.

d. The board shall promptly provide the information obtained pursuant to this section to the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8).

C.45:9-19.8 Medical Practitioner Review Panel; establishment, membership, terms, compensation.

8. The State Board of Medical Examiners shall establish a Medical Practitioner Review Panel.

a. The review panel shall consist of nine members. Eight members shall be appointed by the Governor with the advice and consent of the Senate, as follows: four physicians licensed to practice medi-

cine and surgery in this State, at least one of whom is a board certified psychiatrist or a physician experienced in the field of chemical dependency and at least one of whom is employed by a health maintenance organization; three consumers of health care services who are not licensed health care providers or the spouses of licensed health care providers; and one administrator of a hospital who is appointed upon the recommendation of the New Jersey Hospital Association. One member shall be appointed by the President of the State Board of Medical Examiners and shall be a member of the board and shall serve ex officio.

A review panel member shall serve for a term of three years, except that of the members first appointed, three shall serve for terms of one year, three for terms of two years and two for a term of three years. A review panel member is eligible for reappointment but shall not serve more than two successive terms in addition to any unexpired term to which he has been appointed. Any vacancy in the membership of the review panel shall be filled for the unexpired term in the manner provided by the original appointment.

b. The Governor shall appoint the first chairman and vice chairman of the review panel from among the members to serve for a one-year term, but thereafter, the members of the panel shall annually elect a chairman and vice chairman from among the members. The board shall appoint an executive director and the board and the Division of Consumer Affairs in the Department of Law and Public Safety shall provide such investigative, medical consulting and clerical support as is necessary to carry out the duties of the review panel. The State Board of Medical Examiners' member shall not serve as chairman or vice chairman of the panel.

c. Five members of the review panel shall constitute a quorum and the review panel shall not make any recommendation without the affirmative vote of at least five members of the review panel.

d. The members of the review panel shall be compensated on a per diem basis in the amount of \$150 and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. The executive director of the review panel shall receive such salary as determined by the director of the Division of Consumer Affairs.

e. The Attorney General shall provide legal staff services to the review panel.

C.45:9-19.9 Notice received by review panel; actions, recommendations.**9. a. The review panel shall receive:**

(1) Notice from a health care facility or health maintenance organization, pursuant to section 1 of P.L.1983, c.247 (C.26:2H-12.2);

(2) Notice from an insurer or insurance association or a practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17), regarding a medical malpractice claim settlement, judgment or arbitration award or a termination or denial of, or surcharge on, the medical malpractice liability insurance coverage of a practitioner; and

b. The review panel may receive referrals from the board which may include complaints alleging professional misconduct, incompetence, negligence or impairment of a practitioner from other health care providers and consumers of health care.

c. Upon receipt of a notice or complaint pursuant to this section, the review panel shall promptly investigate the information received and obtain any additional information that may be necessary in order to make a recommendation to the board. The review panel may seek the assistance of a consultant or other knowledgeable person, as necessary, in making its recommendation. The review panel may request the board or the Attorney General to exercise investigative powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its investigation.

(1) If the review panel has reasonable cause to believe that a practitioner represents an imminent danger to his patients, the review panel shall immediately notify the State Board of Medical Examiners and the Attorney General and recommend the initiation of an application before the board to temporarily suspend or otherwise limit the practitioner's license pending further proceedings by the review panel or the board.

If the board temporarily suspends or otherwise limits the license, the board shall notify each licensed health care facility and health maintenance organization with which the practitioner is affiliated and every practitioner in the State with which the practitioner is directly associated in his private practice.

(2) A practitioner who is the subject of an investigation shall be promptly notified of the investigation, pursuant to procedures adopted by regulation of the board that give consideration to the health, safety and welfare of the practitioner's patients and to the necessity for a confidential or covert investigation by the review

panel. At the panel's request or upon a good cause showing by the practitioner an informal hearing shall be scheduled before the review panel or a subcommittee of at least three review panel members, in accordance with regulations adopted by the board. The hearing shall be transcribed and the practitioner shall be entitled to a copy of the transcript, at his own expense. A practitioner who presents information to the review panel is entitled to be represented by counsel.

(3) Notwithstanding any provision of this section to the contrary, in any case in which the board determines to conduct an investigation of a practitioner who it has reasonable cause to believe represents an imminent danger to his patients, the board may direct the review panel to provide the board with its files pertaining to that practitioner and may direct the review panel to promptly terminate its investigation of that practitioner without making a recommendation pursuant to subsection d. of this section.

Upon request of the review panel, the State Board of Medical Examiners shall provide the review panel with any information contained in the board's files concerning a practitioner.

d. Upon completion of its review, the review panel shall prepare a report recommending one of the following dispositions:

(1) Recommend to the State Board of Medical Examiners that the matter be referred to the Attorney General for the initiation of disciplinary action against the practitioner who is the subject of the notice or complaint, pursuant to R.S.45:9-16 or section 8 or 9 of P.L.1978, c.73 (C.45:1-21 and 45:1-22);

(2) Defer making a recommendation to the board pending the outcome of litigation or a health care facility or health maintenance organization disciplinary proceeding, if there is no evidence that the practitioner's professional conduct may jeopardize or improperly risk the health, safety or life of a patient;

(3) Refer the practitioner to the appropriate licensed health care practitioner treatment program recognized by the State Board of Medical Examiners and promptly notify the medical director of the board of the referral; or

(4) Find that no further action is warranted at this time.

e. A member of the State Board of Medical Examiners shall not participate by voting or any other action in any matter before the board on which the board member has participated previously as a review panel member.

f. The State Board of Medical Examiners may affirm, reject or modify any disposition of the review panel. After its consideration of the panel recommendation the board shall notify the practitioner who has been the subject of a notice or complaint of the review panel's recommendation and the board's determination.

g. Nothing in this section shall be construed to prevent or limit the State Board of Medical Examiners, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the Attorney General from taking any other action permitted by law against a practitioner who is the subject of an investigation by the review panel.

h. For the purposes of this section, "practitioner" means a person licensed to practice: medicine and surgery under chapter 9 of Title 45 of the Revised Statutes or a medical resident or intern; or podiatry under chapter 5 of Title 45 of the Revised Statutes.

C.45:9-19.10 Records maintained by review panel.

10. a. The review panel shall maintain records of all notices and complaints it receives and all actions taken with respect to the notices and complaints.

b. At least once a month, the review panel shall provide the State Board of Medical Examiners with a summary report of all information received by the review panel and all recommendations made by the review panel. Upon request of the board, the review panel shall provide the board with any information contained in the review panel's files concerning a practitioner.

c. Any information concerning the professional conduct of a practitioner provided to, or obtained by, the review panel is confidential pending final disposition of an inquiry or investigation of the practitioner by the State Board of Medical Examiners, and may be disclosed only to the board, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety and the Attorney General for the purposes of carrying out their respective responsibilities pursuant to Title 45 of the Revised Statutes.

C.45:9-19.11 Immunity from liability.

11. A member of the State Board of Medical Examiners or the Medical Practitioner Review Panel, the medical director to the State Board of Medical Examiners, the Attorney General, any medical consultant to the board or review panel and any employee of the board or review panel shall not be liable in any action for damages to any person for any action taken or recommendation made by him

within the scope of his function as a member, consultant or employee, if the action or recommendation was taken or made without malice. The Attorney General shall defend the person in any civil suit and the State shall provide indemnification for any damages awarded.

C.45:9-19.12 Issuance of permits to practitioners.

12. The State Board of Medical Examiners shall, by regulation, provide for the issuance of permits to, or registration of, persons engaging in the practice of medicine or surgery or podiatry while in training, and establish the scope of permissible practice by these persons.

C.45:9-19.13 Notification to health care facility of status of license, permit, registration.

13. In any case in which the State Board of Medical Examiners refuses to issue, suspends, revokes or otherwise conditions the license, registration, or permit of a physician, podiatrist or medical resident or intern, the board shall notify each licensed health care facility and health maintenance organization with which the person is affiliated and every board licensee in the State with which the person is directly associated in his private medical practice.

C.2C:21-20 Unlicensed practice of medicine, crime of third degree.

14. A person is guilty of a crime of the third degree if he knowingly does not possess a license or permit to practice medicine and surgery or podiatry, or knowingly has had the license or permit suspended, revoked or otherwise limited by an order entered by the State Board of Medical Examiners, and he:

- a. engages in that practice;
- b. exceeds the scope of practice permitted by the board order;
- c. holds himself out to the public or any person as being eligible to engage in that practice;
- d. engages in any activity for which such license or permit is a necessary prerequisite, including, but not limited to, the ordering of controlled dangerous substances or prescription legend drugs from a distributor or manufacturer; or
- e. practices medicine or surgery or podiatry under a false or assumed name or falsely impersonates another person licensed by the board.

C.2C:21-4.1 Destruction, alteration, falsification of records, crime of fourth degree.

15. A person is guilty of a crime of the fourth degree if he purposefully destroys, alters or falsifies any record relating to the care

of a medical or surgical or podiatric patient in order to deceive or mislead any person as to information, including, but not limited to, a diagnosis, test, medication, treatment or medical or psychological history, concerning the patient.

C.45:9-19.14 Unlicensed practitioner not permitted to purchase, dispense, prescribe controlled substances.

16. A physician or podiatrist whose federal or State privilege to purchase, dispense or prescribe controlled substances has been revoked, suspended or otherwise limited shall not be permitted to administer controlled substances in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or a health maintenance organization operating pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), unless the administration has been approved by the State Board of Medical Examiners. The board may condition its approval on the physician's or podiatrist's participation in a licensed health care practitioner treatment program recognized by the board.

17. Section 2 of P.L.1977, c.285 (C.45:1-2.5) is amended to read as follows:

C.45:1-2.5 Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms; office and meeting places.

2. With respect to the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.

b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.

c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned

or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.

d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

18. R.S.45:5-8 is amended to read as follows:

Revocation, suspension or refusal to grant licenses.

45:5-8. The board may refuse to grant or may revoke, or may suspend a license, upon a showing of the preponderance of the credible evidence, for any of the following causes:

If a licensee or applicant for license has demonstrated any physical, mental or emotional condition or drug or alcohol use which impairs his ability to practice with reasonable skill and safety.

Conviction of crime involving moral turpitude; or where any licensee or applicant for license has pleaded nolo contendere, non vult contendere or non vult to any indictment, information, allegation or complaint, alleging the commission of a crime involving moral turpitude. The record of conviction or the entry of such a plea in any court of this State or any other state or in any of the courts of the United States or any foreign country shall be sufficient warrant for the revocation or suspension of a license.

Where any licensee or applicant for license presents to the board any diploma, license or certificate that shall have been obtained, signed or issued unlawfully or under fraudulent representation.

Unprofessional, dishonorable or unethical conduct in the practice of podiatry.

Failure to comply with the reciprocity provision under section 45:5-7.

Employment by a duly licensed podiatrist of an unlicensed person or persons to perform work, which under this chapter, can be legally done only by persons licensed to practice podiatry in this State.

Conviction in a court of competent jurisdiction of a high misdemeanor.

Fraudulently advertising.

Advertising in any manner, whether as an individual, through a professional service corporation or through a third party on behalf of a licensee, the practice of podiatry; provided, however, that the following shall not be deemed to be advertising prohibited under this chapter:

a. Public information for educational purposes on the practice or profession of podiatry which does not contain the name of any podiatrist licensed to practice in this State or the address of any location where podiatric examination or treatment may be had or is recommended or suggested;

b. Publication of a brief announcement of the opening of an office or the removal to a new location, containing the name, professional degree, address, telephone number, and office hours of the licensee;

c. A listing in an alphabetical telephone directory of the name of a licensee together with his professional degree or the abbreviation therefor;

d. A listing in a classified telephone directory with standard type limited to the name, professional degree, office and home addresses and telephone numbers, and office hours of a licensee;

e. The use of small signs on the doors, windows and walls of a licensee's office or on the building in which he maintains an office setting out his name, professional degree, address and office hours in lettering no larger than four inches in height for street-level offices, and no larger than six inches in height for offices above street-level;

f. Communications with or without the name of the licensee distributed or mailed to his patients of record at his discretion.

Practicing podiatry under a name other than that under which he has a license to practice podiatry or having an unlicensed person practice podiatry under his name.

Use by a podiatrist of the words "clinic," "infirmary," "hospital," "school," "college," "university," or "institute" in English or any other language in connection with any place where podiatry may be practiced or demonstrated.

Before a license is refused, revoked or suspended under the provisions of this section, the accused shall be furnished with a copy of the complaint, and given a hearing before the board in person or by attorney; and any person who, after such refusal or revocation or

suspension of license, attempts or continues the practice of podiatry shall be subject to the penalties hereinafter prescribed.

19. R.S.45:9-1 is amended to read as follows:

State board of medical examiners; membership; appointments; terms; oath; chiropractors to assist in administration of certain laws; advisory committee.

45:9-1. The State Board of Medical Examiners, hereinafter in this chapter designated as the "board" shall consist of 16 members, one of whom shall be the Commissioner of Health, or his designee, two of whom shall be public members and one an executive department designee as required pursuant to section 2 of P.L.1971, c.60 (C.45:1-2.2), and 12 of whom shall be persons of recognized professional ability and honor, and shall possess a license to practice their respective professions in New Jersey, and all of whom shall be appointed by the Governor in accordance with the provisions of section 2 of P.L.1971, c.60 (C.45:1-2.2); provided, however, that said board shall consist of nine graduates of schools of medicine who shall possess the degree of M.D., and in addition the membership of said board shall comprise one osteopath, one podiatrist and one licensed bio-analytical laboratory director, who may or may not be the holder of a degree of M.D. The term of office of members of the board hereafter appointed shall be three years or until their successors are appointed. Said appointees shall, within 30 days after receipt of their respective commissions, take and subscribe the oath or affirmation prescribed by law and file the same in the office of the Secretary of State.

The Governor shall also appoint an advisory committee to consist of four licensed bio-analytical laboratory directors, only two of whom shall possess the degree of M.D., and who shall be appointed from a list to be submitted by the society or organization of which the persons nominated are members. The members of this advisory committee shall serve for a term of three years and until their successors are appointed and qualified, and shall be available to assist the board in the administration of the "Bio-analytical Laboratory and Laboratory Directors Act (1953)," P.L.1953, c.420 (C.45:9-42.1 et seq.). The advisory committee shall meet at the call of the board. The board may authorize reimbursement of the members of the advisory committee for their actual expenses incurred in connection with the performance of their duties as members of the committee.

20. R.S.45:9-16 is amended to read as follows:

Refusal to grant, suspension or revocation of license, or registration of certificate or diploma; grounds; procedures; relicensure.

45:9-16. The board may refuse to grant or may suspend or revoke a license or the registration of a certificate or diploma to practice medicine and surgery filed in the office of any county clerk in this State under any act of the Legislature, upon a showing of the preponderance of the credible evidence that the holder of such license (a) has been adjudicated insane, or (b) has demonstrated any physical, mental or emotional condition or drug or alcohol use which impairs his ability to practice with reasonable skill or safety, or (c) has practiced criminal abortion, or been convicted of the crime of criminal abortion, or has been convicted of crime involving moral turpitude, or has pleaded *nolo contendere*, *non vult contendere* or *non vult* to an indictment, information or complaint alleging the commission of the crime of criminal abortion or of crime involving moral turpitude, or (d) has been determined to be physically or mentally incapacitated, (e) knowingly becomes employed by any physician, surgeon, homeopath, eclectic, osteopath, or doctor who advertises, or (f) shall have presented to the board any diploma, license or certificate that shall have been illegally obtained or shall have been signed or issued unlawfully or under fraudulent representations, or obtains or shall have obtained a license to practice in this State through fraud of any kind, or (g) has been guilty of employing unlicensed persons to perform work which, under chapter 9 of Title 45 of the Revised Statutes can legally be done only by persons licensed to practice medicine and surgery in this State, or (h) has been guilty of gross malpractice or gross neglect in the practice of medicine which has endangered the health or life of any person, or (i) has been demonstrated professionally incompetent to practice medicine, or (j) has advertised in any manner, whether as an individual, through a professional service corporation or through a third party on his behalf, the practice of medicine and surgery; provided, however, that the following shall not be deemed to be advertising prohibited under this chapter:

a. Public information for educational purposes on the practice or profession of medicine and surgery which does not contain the name of any person licensed to practice medicine and surgery in this State or the address of any location where medical examination or treatment may be had or is recommended or suggested;

b. Publication of a brief announcement of the opening of an office or the removal to a new location, containing the name, professional degree, type of practice, address, telephone number, and office hours of the licensee;

c. A listing in an alphabetical telephone directory of the name of a licensee together with his professional degree or the abbreviation therefor;

d. A listing in a classified telephone directory with standard type limited to the name, professional degree, type of practice, office and home addresses and telephone numbers, and office hours of a licensee;

e. The use of small signs on the doors, windows and walls of a licensee's office or on the building in which he maintains an office, or the use of a sign directory separate and apart from, but in reasonable proximity to, the building in which he maintains an office as an aid to the public in locating the office, setting out his name, professional degree, type of practice, address and office hours in lettering no larger than six inches in height for street-level offices, and no larger than eight inches in height for offices above street-level;

f. Communications with or without the name of the licensee distributed or mailed to his patients of record at his discretion;

g. A directory of physicians for consumer use which shall include the educational background, degrees, fellowships, certifications, specialties, experience and any other pertinent information which is related to the practice of medicine and surgery of the physicians.

The board shall refuse to grant or shall suspend or revoke any such license or the registration of any such certificate or diploma upon a showing of the preponderance of the credible evidence that the applicant for, or holder of, such license habitually uses drugs or has been convicted of a violation of or has pleaded *nolo contendere*, *non vult contendere* or *non vult* to an indictment, information or complaint alleging a violation of any federal or State law relating to narcotic drugs. Before any license, or registration of a certificate or diploma to practice medicine and surgery filed in the office of any county clerk of this State under any act of the Legislature, shall be suspended or revoked, except in the case of conviction of criminal abortion or conviction of crime involving moral turpitude or plea of *nolo contendere*, *non vult contendere* or *non vult* to indictment, information or complaint alleging commission of the crime of criminal abortion or crime involving moral turpitude, or conviction of violation of or plea of *nolo contendere*, *non vult contendere* or *non vult* to an indictment, information or complaint alleging violation of any federal or State law relating to narcotic drugs, the accused person shall be furnished with a copy of the complaint and be given a hearing

before said board in person or by attorney, and any person whose license shall be suspended or revoked in accordance with this section shall be deemed an unlicensed person during the period of such suspension or revocation, and as such shall be subject to the penalties hereinafter prescribed for persons who practice medicine and surgery, without first having obtained a license so to do. Any person whose license, or registration of a certificate or diploma to practice medicine and surgery filed in the office of any county clerk of this State under any act of the Legislature, shall be suspended or revoked under the authority of chapter 9 of Title 45 of the Revised Statutes may, in the discretion of the board be relicensed at any time to practice without an examination, or have his registration of a certificate or diploma, as aforesaid, reinstated, on application being made to the board.

The record of conviction or the record of entry of a plea of nolo contendere, non vult contendere or non vult in any of the courts of this State, or any other state of the United States, or any of the courts of the United States, or the court of any foreign nation, shall be sufficient warrant for the board to refuse to grant or to suspend or revoke the license or the registration of a certificate or diploma to practice medicine and surgery filed in the office of any county clerk in this State under any act of the Legislature.

21. Section 3 of P.L.1983, c.248 (C.45:9-19.3) is amended to read as follows:

C.45:9-19.3 Confidentiality of information.

3. Any information concerning the conduct of a physician or surgeon provided to the State Board of Medical Examiners pursuant to section 1 of P.L.1983, c.248 (C.45:9-19.1), section 5 of P.L.1978, c.73 (C.45:1-18) or any other provision of law, is confidential pending final disposition of the inquiry or investigation by the board. If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information shall remain confidential, except that the board may release the information to a government agency, for good cause shown, upon an order of the Superior Court after notice to the physician or surgeon who is the subject of the information and an opportunity to be heard. The application for the court order shall be placed under seal.

22. N.J.S.2C:43-12 is amended to read as follows:

Supervisory treatment—pretrial intervention.

2C:43-12. Supervisory Treatment—Pretrial Intervention. a. Pub-

lic policy. The purpose of sections 2C:43-12 through 2C:43-22 of this chapter is to effectuate a Statewide program of Pretrial Intervention. It is the policy of the State of New Jersey that supervisory treatment should ordinarily be limited to persons who have not previously been convicted of any criminal offense under the laws of New Jersey, or under any criminal law of the United States, or any other state when supervisory treatment would:

(1) Provide applicants, on an equal basis, with opportunities to avoid ordinary prosecution by receiving early rehabilitative services or supervision, when such services or supervision can reasonably be expected to deter future criminal behavior by an applicant, and when there is apparent causal connection between the offense charged and the rehabilitative or supervisory need, without which cause both the alleged offense and the need to prosecute might not have occurred; or

(2) Provide an alternative to prosecution for applicants who might be harmed by the imposition of criminal sanctions as presently administered, when such an alternative can be expected to serve as sufficient sanction to deter criminal conduct; or

(3) Provide a mechanism for permitting the least burdensome form of prosecution possible for defendants charged with "victimless" offenses; or

(4) Provide assistance to criminal calendars in order to focus expenditure of criminal justice resources on matters involving serious criminality and severe correctional problems; or

(5) Provide deterrence of future criminal or disorderly behavior by an applicant in a program of supervisory treatment.

b. Admission of an applicant into a program of supervisory treatment shall be measured according to the applicant's amenability to correction, responsiveness to rehabilitation and the nature of the offense.

c. The decision and reasons therefor made by the designated judges (or assignment judges), prosecutors and program directors in granting or denying applications for supervisory treatment, in recommending and ordering termination from the program or dismissal of charges, in all cases shall be reduced to writing and disclosed to the applicant.

d. If an applicant desires to challenge the decision of the pros-

ecutor or program director not to recommend enrollment in a program of supervisory treatment the proceedings prescribed under section 14 shall be followed.

e. Referral. At any time prior to trial but after the filing of a criminal complaint, or the filing of an accusation or the return of an indictment, with the consent of the prosecutor and upon written recommendation of the program director, the assignment judge or a judge designated by him may postpone all further proceedings against an applicant and refer said applicant to a program of supervisory treatment approved by the Supreme Court. Prosecutors and program directors shall consider in formulating their recommendation of an applicant's participation in a supervisory treatment program, among others, the following criteria:

- (1) The nature of the offense;
- (2) The facts of the case;
- (3) The motivation and age of the defendant;
- (4) The desire of the complainant or victim to forego prosecution;
- (5) The existence of personal problems and character traits which may be related to the applicant's crime and for which services are unavailable within the criminal justice system, or which may be provided more effectively through supervisory treatment and the probability that the causes of criminal behavior can be controlled by proper treatment;
- (6) The likelihood that the applicant's crime is related to a condition or situation that would be conducive to change through his participation in supervisory treatment;
- (7) The needs and interests of the victim and society;
- (8) The extent to which the applicant's crime constitutes part of a continuing pattern of anti-social behavior;
- (9) The applicant's record of criminal and penal violations and the extent to which he may present a substantial danger to others;
- (10) Whether or not the crime is of an assaultive or violent nature, whether in the criminal act itself or in the possible injurious consequences of such behavior;
- (11) Consideration of whether or not prosecution would exacerbate the social problem that led to the applicant's criminal act;

- (12) The history of the use of physical violence toward others;
- (13) Any involvement of the applicant with organized crime;
- (14) Whether or not the crime is of such a nature that the value of supervisory treatment would be outweighed by the public need for prosecution;
- (15) Whether or not the applicant's involvement with other people in the crime charged or in other crime is such that the interest of the State would be best served by processing his case through traditional criminal justice system procedures;
- (16) Whether or not the applicant's participation in pretrial intervention will adversely affect the prosecution of codefendants; and
- (17) Whether or not the harm done to society by abandoning criminal prosecution would outweigh the benefits to society from channeling an offender into a supervisory treatment program.

f. Review of Supervisory Treatment Applications; Procedure Upon Denial. Each applicant for supervisory treatment shall be entitled to full and fair consideration of his application. If an application is denied, the program director or the prosecutor shall precisely state his findings and conclusion which shall include the facts upon which the application is based and the reasons offered for the denial. If the applicant desires to challenge the decision of a program director not to recommend, or of a prosecutor not to consent to, enrollment into a supervisory treatment program, a motion shall be filed before the designated judge (or assignment judge) authorized pursuant to the rules of court to enter orders.

g. Limitations. Supervisory treatment may occur only once with respect to any defendant and any person who has previously received supervisory treatment under section 27 of P.L.1970, c.226 (C.24:21-27), shall not be eligible for supervisory treatment under this section. However, supervisory treatment, as provided herein, shall be available to a defendant irrespective of whether the defendant contests his guilt of the charge or charges against him.

h. Termination. Termination of supervisory treatment under this section shall be immediately reported to the assignment judge of the county who shall forward such information to the Administrative Director of the Courts.

i. Appointment of Program Directors; Authorized Referrals. Programs of supervisory treatment and appointment of the program

directors require approval by the Supreme Court with the consent of the assignment judge and prosecutor. Referrals of participants from supervisory treatment programs may be to any public or private office or agency, including but not limited to, programs within the probation service of the court, offering counseling or any other social service likely to aid in the rehabilitation of the participant and to deter the commission of other offenses.

j. Health Care Professional Licensing Board Notification. The program director shall promptly notify the State Board of Medical Examiners when a State licensed physician or podiatrist has been enrolled in a supervisory treatment program after he has been charged with an offense involving drugs or alcohol.

23. N.J.S.2C:52-2 is amended to read as follows:

Indictable offenses.

2C:52-2. Indictable Offenses. a. In all cases, except as herein provided, wherein a person has been convicted of a crime under the laws of this State and who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, and has not been adjudged a disorderly person or petty disorderly person on more than two occasions may, after the expiration of a period of 10 years from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later, present a duly verified petition as provided in section 2C:52-7 to the Superior Court in the county in which the conviction was entered praying that such conviction and all records and information pertaining thereto be expunged.

Although subsequent convictions for no more than two disorderly or petty disorderly offenses shall not be an absolute bar to relief, the nature of those conviction or convictions and the circumstances surrounding them shall be considered by the court and may be a basis for denial of relief if they or either of them constitute a continuation of the type of unlawful activity embodied in the criminal conviction for which expungement is sought.

b. Records of conviction pursuant to statutes repealed by this Code for the crimes of murder, manslaughter, treason, anarchy, kidnapping, rape, forcible sodomy, arson, perjury, false swearing, robbery, embracery, or a conspiracy or any attempt to commit any of the foregoing, or aiding, assisting or concealing persons accused of the foregoing crimes, shall not be expunged.

Records of conviction for the following crimes specified in the New

Jersey Code of Criminal Justice shall not be subject to expungement: Section 2C:11-1 et seq. (Criminal Homicide), except death by auto as specified in section 2C:11-5; section 2C:13-1 (Kidnapping); section 2C:14-2 (Aggravated Sexual Assault); section 2C:15-1 (Robbery); section 2C:17-1 (Arson and Related Offenses); section 2C:28-1 (Perjury); section 2C:28-2 (False Swearing) and conspiracies or attempts to commit such crimes.

c. In the case of conviction for the sale or distribution of a controlled dangerous substance or possession thereof with intent to sell, expungement shall be denied except where the crimes relate to:

(1) Marijuana, where the total quantity sold, distributed or possessed with intent to sell was 25 grams or less, or

(2) Hashish, where the total quantity sold, distributed or possessed with intent to sell was five grams or less.

d. In the case of a State licensed physician or podiatrist convicted of an offense involving drugs or alcohol or pursuant to section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the court shall notify the State Board of Medical Examiners upon receipt of a petition for expungement of the conviction and records and information pertaining thereto.

24. Section 1 of P.L.1979, c.128 (C.2A:84A-22.10) is amended to read as follows:

C.2A:84A-22.10 Hospital or long-term health care facility committees; professional review committees; liability of members.

1. Any person who serves as a member of, is staff to, under a contract or other formal agreement with, participates with, or assists with respect to an action of:

a. A hospital or long-term health care facility committee established to administer a utilization review plan for such hospital or long-term health care facility; or

b. A hospital medical staff committee having the responsibility of evaluation and improvement of the quality of care rendered in such hospital; or

c. (Deleted by amendment, P.L.1985, c.506.)

d. A hospital peer-review committee having the responsibility for the review of the qualifications and credentials of physicians or dentists seeking appointment or reappointment to the medical or dental staff of a hospital, or of questions of the clinical or administrative

competence of physicians or dentists so appointed, or of matters concerning limiting the scope of hospital privileges of physicians or dentists on the staff, or of matters concerning the dismissal or discharge of same; or

e. A peer-review, ethics, grievance, judicial, quality assurance or professional relations committee or subcommittee thereof of a local, county or State medical, dental, podiatric, optometric, psychological, veterinary, chiropractic or pharmaceutical society or long-term health care facility association, of any such society or association itself, or of a health maintenance organization, when such society, association or organization or committee or subcommittee thereof is performing any peer-review, ethics, grievance, judicial, quality assurance or professional relations review function that

(1) Is described in subsections a., b., and d., above of this section; or

(2) Involves any controversy or dispute between (a) a physician, dentist, podiatrist, optometrist, psychologist, veterinarian, chiropractor, pharmacist, nurse, dietitian or licensed administrator and a patient or, in the case of a veterinarian, the patient's owner, concerning the diagnosis, treatment or care of such patient or the fees or charges therefor, (b) a physician, dentist, podiatrist, optometrist, psychologist, veterinarian, chiropractor, pharmacist, nurse, dietitian or licensed administrator and a provider of medical, dental, podiatric, veterinary, optometric, psychological, or pharmaceutical benefits concerning any medical or health charges or fees of such physician, dentist, podiatrist, optometrist, psychologist, veterinarian, chiropractor, pharmacist, nurse, dietitian or licensed administrator, or (c) physicians, dentists, podiatrists, optometrists, psychologists, veterinarians, chiropractors, pharmacists, nurses, dietitians or licensed administrators:

shall not be liable in damages to any person for any action taken or recommendation made by him within the scope of his function with the committee, subcommittee or society in the performance of said peer-review, ethics, grievance, judicial, quality assurance or professional relations review functions, if such action or recommendation was taken or made without malice and in the reasonable belief after reasonable investigation that such action or recommendation was warranted upon the basis of facts disclosed.

C.45:9-19.15 Increase in licensing fee of physicians, podiatrists.

25. a. The State Board of Medical Examiners shall increase the

licensing fee of physicians and podiatrists in an amount sufficient to fund the costs of establishing and operating the Medical Practitioner Review Panel and the position of medical director, established pursuant to P.L.1989, c.300 (C.45:9-19.4 et al.).

b. The board shall establish a reduced licensing fee for physicians and podiatrists who are 65 years of age or older and who have no affiliation status with a licensed health care facility or a health maintenance organization.

26. The State Board of Medical Examiners shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to carry out the provisions of this act, including rules and regulations governing the operation of the Medical Practitioner Review Panel.

27. This act shall take effect immediately, except that sections 2, 4, 8, 9 and 10 shall take effect on the 180th day following enactment.

Approved January 12, 1990.

CHAPTER 301

AN ACT concerning fees collected for the processing of certain documents and amending P.L.1985, c.422.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 7 of P.L.1985, c.422 (C.22A:4-17.1) is amended to read as follows:

C.22A:4-17.1 Funds to upgrade services.

7. a. The county treasurer shall return to the county clerk or the register of deeds and mortgages \$2.00 of each fee received for the recording, filing or cancelling of a document in the office of the county clerk or register of deeds and mortgages. Such sums shall be returned within 10 days of receipt of the fee by the county treasurer.

b. Monies received by the county clerks or registers of deeds and mortgages pursuant to the provisions of subsection a. shall be used to upgrade and modernize the services provided by their offices.

c. The provisions of subsection a. shall not apply to fees received from municipalities for recording, filing or cancelling documents.

2. Section 9 of P.L.1985, c.422 is amended to read as follows:

9. This act shall take effect immediately.

3. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 302

AN ACT requiring the display of posters on the Heimlich Maneuver in public school buildings and supplementing P.L.1983, c.488 (C.26:3E-1 et seq.) and chapter 33 of Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.18A:33-6 Display of poster illustrating choke prevention techniques.

1. Each local board of education shall:

a. Ensure that posters illustrating choke prevention techniques such as the "Heimlich Maneuver" are prominently displayed in all school cafeterias, faculty dining rooms and all other public school locations designated as places where food is consumed;

b. Have pamphlets illustrating choke prevention techniques available in every school for free distribution to students; and

c. Utilize, for the purposes of this section, instructional posters and pamphlets prepared by the Department of Health pursuant to P.L.1983, c.488 (C.26:3E-1 et seq.).

C.26:3E-3.1 Posters provided by Department of Health.

2. The Department of Health, through local boards of health, shall make available to school districts, instructional posters and pamphlets prepared pursuant to P.L.1983, c.488 (C.26:3E-1 et seq.).

3. This act shall take effect 120 days following enactment.

Approved January 12, 1990.

CHAPTER 303

AN ACT concerning acquired immune deficiency syndrome and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.26:5C-5 Definitions.

1. As used in this act:

“AIDS” means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

“Commissioner” means the Commissioner of Health.

“Department” means the Department of Health.

“Diagnosis and treatment” means services or activities carried out for the purpose of, or as an incident to, diagnosis, prevention and treatment of AIDS and HIV infection and includes interviewing and counseling.

“HIV infection” means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

“HIV related illness” means an illness that may result from, or may be associated with, HIV infection.

“HIV related test” means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent thought to cause or to indicate the presence of AIDS.

“Identifying information” means the name, address, Social Security number, or similar information by which the identity of a person who has or is suspected of having AIDS or HIV infection may be determined with reasonable accuracy either directly or by reference to other publicly available information.

“Informed consent” means consent obtained pursuant to policies and procedures prescribed in 42 C.F.R. § 2.31.

“Minor” means a person under the age of 12.

“Program” means either an individual or an organization furnishing diagnosis and treatment of AIDS and conditions related to HIV infection.

C.26:5C-6 AIDS, HIV infection reported to Department of Health.

2. All diagnosed cases of AIDS and all diagnosed cases of HIV infection shall be reported to the department along with the identifying information for the person diagnosed. However, the department may select up to six counseling and testing sites throughout the State to offer anonymous testing. These sites shall be required to report all diagnosed cases of AIDS and all diagnosed cases of HIV infection but shall not be required to request or report identifying information. The commissioner shall determine those individuals who shall be required to make the reports and the manner in which the report shall be made to the department.

C.26:5C-7 Confidentiality of AIDS, HIV infection records, information.

3. A record maintained by:
- a. the department;
 - b. a local health department;
 - c. an organization pursuant to a contract with, grant from, or regulation by the department in connection with this act;
 - d. a provider of health care or a health care facility as defined by section 2 of P.L.1971, c.136 (C.26:2H-2);
 - e. a laboratory;
 - f. a blood bank;
 - g. a third-party payor; or
 - h. any other institution or person;

which contains identifying information about a person who has or is suspected of having AIDS or HIV infection is confidential and shall be disclosed only for the purposes authorized by this act.

C.26:5C-8 Disclosure of AIDS, HIV records, information.

4. a. The content of a record referred to in section 3 of this act may be disclosed in accordance with the prior written informed consent of the person who is the subject of the record or if the person is legally incompetent or deceased, in accordance with section 8 of this act.

b. If the prior written consent of the person who is the subject of the record is not obtained, the person's records shall be disclosed only under the following conditions:

- (1) To qualified personnel for the purpose of conducting scientific

research, but a record shall be released for research only following review of the research protocol by an Institutional Review Board constituted pursuant to federal regulation 45 C.F.R. § 46.101 et seq. The person who is the subject of the record shall not be identified, directly or indirectly, in any report of the research and research personnel shall not disclose the person's identity in any manner.

(2) To qualified personnel for the purpose of conducting management audits, financial audits or program evaluation, but the personnel shall not identify, directly or indirectly, the person who is the subject of the record in a report of an audit or evaluation, or otherwise disclose the person's identity in any manner. Identifying information shall not be released to the personnel unless it is vital to the audit or evaluation.

(3) To qualified personnel involved in medical education or in the diagnosis and treatment of the person who is the subject of the record. Disclosure is limited to only personnel directly involved in medical education or in the diagnosis and treatment of the person.

(4) To the department as required by State or federal law.

(5) As permitted by rules and regulations adopted by the commissioner for the purposes of disease prevention and control.

(6) In all other instances authorized by State or federal law.

C.26:5C-9 Order of court to disclose record of AIDS, HIV infection.

5. a. The record of a person who has or is suspected of having AIDS or HIV infection may be disclosed by an order of a court of competent jurisdiction which is granted pursuant to an application showing good cause therefor. At a good cause hearing the court shall weigh the public interest and need for disclosure against the injury to the person who is the subject of the record, to the physician-patient relationship, and to the services offered by the program. Upon the granting of the order, the court, in determining the extent to which a disclosure of all or any part of a record is necessary, shall impose appropriate safeguards to prevent an unauthorized disclosure.

b. A court may authorize disclosure of a person's record for the purpose of conducting an investigation of or a prosecution for a crime of which the person is suspected, only if the crime is a first degree crime and there is a reasonable likelihood that the record in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution.

c. Except as provided in subsections a. and b. of this section, a

record shall not be used to initiate or substantiate any criminal or civil charges against the person who is the subject of the record or to conduct any investigation of that person.

d. The court shall deny an application for disclosure of a person's record unless the court makes a specific finding that the program was afforded the opportunity to be represented at the hearing. A program operated by a federal, State or local government agency or department shall be represented at the hearing.

e. Nothing in this section shall be construed to authorize disclosure of any confidential communication which is otherwise protected by statute, court rule or common law.

C.26:5C-10 Limits on disclosure to continue.

6. The limits on disclosure set forth in this act shall continue to apply to a record relating to AIDS and HIV infection concerning a person who has been a patient or a participant in a program, whether that person remains a patient or participant or ceases to be a patient or participant.

C.26:5C-11 Disclosed record to be held confidential by recipient.

7. Any record disclosed under this act shall be held confidential by the recipient of the record and shall not be released by said recipient unless the conditions of this act are met.

C.26:5C-12 Consent to disclose record of deceased, incompetent person.

8. When consent is required for disclosure of the record of a deceased or legally incompetent person who has or is suspected of having AIDS or HIV infection, consent may be obtained:

a. From an executor, administrator of the estate, or authorized representative of the legally incompetent or deceased person;

b. From the person's spouse or primary caretaking partner or, if none, by another member of the person's family; and

c. From the commissioner in the event that a deceased person has neither an authorized representative or next-of-kin.

C.26:5C-13 Consent for disclosure of minor's record.

9. When consent is required for disclosure of the record of a minor who has or is suspected of having AIDS or HIV infection, consent shall be obtained from the parent, guardian, or other individual authorized under State law to act in the minor's behalf.

C.26:5C-14 Civil actions permitted against violators.

10. a. A person who has or is suspected of having AIDS or HIV infection who is aggrieved as a result of a violation of this act may

commence a civil action against the individual or institution who committed the violation to obtain appropriate relief, including actual damages, equitable relief and reasonable attorney's fees and court costs. Punitive damages may be awarded when the violation evidences wantonly reckless or intentionally malicious conduct by the person or institution who committed the violation.

b. Each disclosure made in violation of this act is a separate and actionable offense.

11. The commissioner, in consultation with the Public Health Council, shall promulgate rules and regulations necessary to carry out the purposes of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

12. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 304

AN ACT concerning secondary mortgage loan licensees and amending P.L.1970, c.205.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 13 of P.L.1970, c.205 (C.17:11A-46) is amended to read as follows:

C.17:11A-46 Prohibitions.

13. A secondary mortgage loan licensee shall not:

a. Transact any business subject to the provisions of this act under any other name or at any other location except that designated in his license. For the purpose of this section, the transaction of business includes, but is not limited to, the signing of any instrument, document or any other form by the borrower, except that a borrower's application for a secondary mortgage loan need not be signed in the office of the licensee and that a secondary mortgage loan need not be closed at the office of a licensee provided that it is closed in New Jersey at the office of an attorney admitted to practice in this State. A licensee who changes his name or place of business shall immedi-

ately notify the commissioner who shall issue a certificate to the licensee, which shall specify the licensee's new name or address.

b. Photocopy or otherwise reproduce his license.

c. Request that a borrower incorporate in connection with a secondary mortgage loan or aid or abet such a scheme.

d. Make a secondary mortgage loan which has been referred by a retail seller, who, in connection with such referral, has required the borrower to purchase personal property or services or has indicated that such purchase is necessary as a condition precedent for such loan.

e. Charge an application fee or make any other charge or accept an advance deposit prior to the time a secondary mortgage loan is closed.

f. Require or accept from a borrower any collateral or security for a secondary mortgage loan other than a mortgage, indenture or any other similar instrument or document which creates a lien upon any real property or an interest in real property including, but not limited to, shares of stock in a cooperative corporation.

g. Contract for, charge, receive or collect directly or indirectly, any of the following in connection with a secondary mortgage loan: a broker's or finder's fee; commission; discount; expense; fine; penalty; points; premium, or any other thing of value other than the charges authorized by this act; except the expenses incurred on actual sale of the real property in foreclosure proceedings or upon the entry of judgment, which are otherwise authorized by law; provided, however, a licensee may require a borrower to pay a reasonable legal fee at the time of the execution of the secondary mortgage loan, provided any such legal fee shall represent a charge actually incurred in connection with said secondary mortgage loan and shall not be paid to a person except an attorney authorized to practice law in this State; provided, further, that such legal fee shall be evidenced by a statement from such attorney issued to the licensee.

h. Assign, sell or transfer a secondary mortgage loan to a person other than a banking institution as defined in section 1 of P.L.1948, c.67 (C.17:9A-1), association, as defined in section 5 of P.L.1963, c.144 (C.17:12B-5), or another secondary mortgage loan licensee, the Federal National Mortgage Association created pursuant to section 302 of the National Housing Act, 48 Stat. 1246 (17 U.S.C. § 1717),

the Federal Home Loan Mortgage Corporation created pursuant to section 303 of the "Federal Home Loan Mortgage Corporation Act," Pub.L.91-351 (17 U.S.C. § 1452), or other persons or entities as from time to time approved by the commissioner to facilitate and assure the steady flow of secondary mortgage funds into the State. Notwithstanding any other provisions of this act, such persons or entities need not be licensed under the act to purchase or accept such an assignment or transfer of a secondary mortgage loan.

i. Solicit business through any other person by paying, directly or indirectly, for such business referred to the licensee by any such person, except as described in subsection j. of this section.

j. Solicit business, directly or indirectly, for any other licensee, lender, retail seller of personal property or services or for any other person, whether in this or any other state, except that a licensee may solicit on behalf of another licensee or lender expressly authorized to make secondary mortgage loans in this State if (1) such solicitation results in no additional cost or expense to the borrower; and (2) the application and all advertising in connection therewith clearly disclose the identity of the person or entity which will be making the loan. If those conditions are met, a licensee may collect a fee or a commission from the lender as consideration for the solicitation.

k. Advertise, cause to be advertised or otherwise solicit whether orally, in writing, by telecast, by broadcast or in any other manner:

(1) That he is licensed by, or that his business is under the supervision of, the State of New Jersey or the Department of Banking, except that a licensee may advertise that he is "licensed pursuant to the Secondary Mortgage Loan Act"; provided, however, that for the purpose of raising capital, no such advertisement shall be permitted if it is to be used in connection with a public solicitation for such funds.

(2) Any name, address or telephone number other than the licensee's own name, address and telephone number in this State.

(3) The word "bank" or any term inferring that the licensee is or is associated with a bank.

(4) The amount of the interest to be charged, unless such charge is also expressed as an annual percentage rate.

(5) Any statement or representation which is false, misleading or deceptive and, provided further, a written or other visual advertise-

ment shall include the licensee's name, address and telephone number in this State and the phrase "Secondary Mortgage Loans" in 10-point bold type or larger.

(6) Any statement or representation that the licensee will provide "immediate approval" of a loan application or "immediate closing" of a loan or will afford unqualified access to credit.

1. Make or offer to make any secondary mortgage loan which would not be a prudent loan.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 305

AN ACT concerning out of home placements for juveniles and amending P.L.1982, c.80.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 12 of P.L.1982, c.80 (C.2A:4A-87) is amended to read as follows:

C.2A:4A-87 Juvenile-family crisis referral to courts; out of home placement.

12. Juvenile-family crisis referral to courts; out of home placement. When, despite provision of crisis intervention services and the exhaustion of all alternative services, there is a refusal on the part of the juvenile to stay in or return to the home or a refusal on the part of the parents to allow the juvenile to stay in or return home, or the physical safety of the juvenile is threatened, or the juvenile is in need of immediate care such that it is necessary to make an out of home placement of the juvenile, court intake services shall:

a. Arrange, when agreed to by the parent or guardian and juvenile, alternate living arrangement for the juvenile with a relative, neighbor, or other suitable family setting. It shall not be necessary for a court hearing to approve the living arrangement and the arrangement may continue as long as there is agreement; or

b. Arrange, when no alternate living arrangement can be agreed to and when all possible resources for alternate living arrangements as set forth in subsection a. of this section have been exhausted,

temporary out of home placement prior to the placement hearing. Court intake services shall immediately file a petition for out of home placement which shall include documentation of the attempts made to provide alternate living arrangements including, but not limited to, the names of persons contacted, their responses and the lack of agreement by the juvenile or the juvenile's parents if the persons contacted are willing to take the juvenile with the court. The crisis intervention unit shall inform the juvenile and parent or guardian that an out of home placement determination may be made by the court where an alternate living arrangement cannot be agreed to.

2. This act shall take effect on the 30th day after enactment.

Approved January 12, 1990.

CHAPTER 306

AN ACT concerning criteria for placing juveniles in detention and amending P.L.1982, c.77.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 15 of P.L.1982, c.77 (C.2A:4A-34) is amended to read as follows:

C.2A:4A-34 Criteria for placing juvenile in detention.

15. Criteria for placing juvenile in detention.

a. Where it will not adversely affect the health, safety or welfare of a juvenile, the juvenile shall be released pending the disposition of a case, if any, to any person or agency provided for in this section upon assurance being received that such person or persons accept responsibility for the juvenile and will bring him before the court as ordered.

b. No juvenile shall be placed in detention without the permission of a judge or the court intake service.

c. A juvenile charged with delinquency may not be placed or retained in detention under this act prior to disposition, except as otherwise provided by law, unless:

(1) Detention is necessary to secure the presence of the juvenile at the next hearing as evidenced by a demonstrable record of recent

willful failure to appear at juvenile court proceedings or to remain where placed by the court or the court intake service; or

(2) The physical safety of persons or property of the community would be seriously threatened if the juvenile were not detained and the juvenile is charged with an offense which, if committed by an adult would constitute a crime; or

(3) When the criteria for detention are met and the juvenile is charged with an offense which, if committed by an adult, would constitute a disorderly persons or petty disorderly persons offense, the juvenile may be placed in detention temporarily. Police and court intake personnel shall make all reasonable efforts to locate a parent or guardian to accept custody of the juvenile prior to requesting or approving the juvenile's placement in detention. If, after the initial detention hearing, continued detention is necessary, the juvenile shall not be detained in a secure facility but shall be transferred to a shelter or other non-secure placement.

d. The judge or court intake officer prior to making a decision of detention shall consider and, where appropriate, employ any of the following alternatives:

- (1) Release to parents;
- (2) Release on juvenile's promise to appear at next hearing;
- (3) Release to parents, guardian or custodian upon written assurance to secure the juvenile's presence at the next hearing;
- (4) Release into care of a custodian or public or private agency reasonably capable of assisting the juvenile to appear at the next hearing;
- (5) Release with imposition of restrictions on activities, associations, movements and residence reasonably related to securing the appearance of the juvenile at the next hearing;
- (6) Release with required participation in a home detention program;
- (7) Placement in a shelter care facility; or
- (8) Imposition of any other restrictions other than detention or shelter care reasonably related to securing the appearance of the juvenile.

e. In determining whether detention is appropriate for the juvenile, the following factors shall be considered:

- (1) The nature and circumstances of the offense charged;
- (2) The age of the juvenile;
- (3) The juvenile's ties to the community;
- (4) The juvenile's record of prior adjudications, if any; and
- (5) The juvenile's record of appearance or nonappearance at previous court proceedings.

f. No juvenile 11 years of age or under shall be placed in detention unless he is charged with an offense which, if committed by an adult, would be a crime of the first or second degree or arson.

g. If the court places a juvenile in detention, the court shall state on the record its reasons for that detention.

2. Section 19 of P.L.1982, c.77 (C.2A:4A-38) is amended to read as follows:

C.2A:4A-38 Detention hearing.

19. Detention hearing.

a. When a juvenile is taken into custody and detained a complaint shall be filed forthwith as provided by the Rules of Court. The court shall determine whether detention is required pursuant to the criteria provided for in section 15 of this act.

b. Notice of the detention hearing, either oral or written, stating the time, place, and purpose of the hearing shall be given to the juvenile and to his or her parent or parents, or guardian, if any, if they can be contacted.

c. The detention hearing shall be conducted in accordance with the Rules of Court and shall be attended by the juvenile and one or both parents, or guardian, but may take place in the absence of parent or guardian if such notice or process fails to produce their attendance.

d. When the judge finds that detention is not necessary or required, the court shall order the juvenile's release and may place such conditions, if any, upon release as are consistent with the purposes of this act, Rules of Court, and as are provided for in section 15 of this act.

e. The initial detention hearing shall be held no later than the morning following the juvenile's placement in detention including weekends and holidays.

f. If a delinquency complaint has not been filed by the time the initial detention hearing has been held, the juvenile shall be released from custody immediately.

g. When the court determines that detention is necessary pursuant to section 15 of this act, the court order continuing the juvenile's detention shall be supported by reasons and findings of fact on the record.

h. If the juvenile is not represented by counsel at the initial detention hearing and if the court continues his detention after the hearing, the court shall forthwith schedule a second detention hearing to be held within two court days thereafter at which time the juvenile shall be represented by counsel as provided by the Rules of Court.

i. There shall be a probable cause determination where a juvenile has been charged with delinquency and has been placed in detention, within two court days after the initial hearing or, where a second detention hearing is necessary pursuant to subsection h. of this section, at that hearing.

j. A detention review hearing with counsel shall be held within 14 court days of the prior detention hearing and if detention is continued, detention review hearings shall be held thereafter at intervals not to exceed 21 court days.

k. When a juvenile is detained, an adjudicatory hearing shall be held no later than 30 days from the date of detention. If no adjudicatory hearing is held within 30 days, the court shall, within 72 hours of a motion by the juvenile, fix a date certain for the adjudicatory hearing unless an extension is granted by the court for good cause shown. Written notice of any application for a postponement shall be sent to the juvenile's counsel who shall have the right to be heard on the application.

l. When a juvenile has been adjudicated delinquent and is awaiting transfer to a dispositional alternative that does not involve a secure residential or out of home placement and continued detention is necessary, the juvenile shall not be detained in a secure facility but shall be transferred to a non-secure facility.

3. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 307

AN ACT concerning certain dogs, supplementing chapter 19 of Title 4 of the Revised Statutes, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.4:19-17 Findings, declarations.

1. The Legislature finds and declares that certain dogs are an increasingly serious and widespread threat to the safety and welfare of citizens of this State by virtue of their unprovoked attacks on, and associated injury to, individuals and other animals; that these attacks are in part attributable to the failure of owners to confine and properly train and control these dogs; that existing laws at the local level inadequately address this problem; and that it is therefore appropriate and necessary to impose a uniform set of State requirements on the owners of vicious or potentially dangerous dogs.

C.4:19-18 Definitions.

2. As used in this act:

“Animal control officer” means a certified municipal animal control officer or, in the absence of such an officer, the chief law enforcement officer of the municipality or his designee.

“Department” means the Department of Health.

“Dog” means any dog or dog hybrid.

“Domestic animal” means any cat, dog, or livestock other than poultry.

“Panel” means any panel selected pursuant to section 5 of this act.

“Potentially dangerous dog” means any dog or dog hybrid declared potentially dangerous by the panel pursuant to section 7 of this act.

“Vicious dog” means any dog or dog hybrid declared vicious by the panel pursuant to section 6 of this act.

C.4:19-19 Impoundment of dog.

3. An animal control officer shall seize and impound a dog when the officer has reasonable cause to believe that the dog:

a. attacked a person and caused death or serious bodily injury as defined in N.J.S.2C:11-1(b) to that person;

b. caused bodily injury as defined in N.J.S.2C:11-1(a) to a person

during an unprovoked attack and poses a serious threat of harm to persons or domestic animals;

c. engaged in dog fighting activities as described in R.S.4:22-24 and R.S.4:22-26; or

d. has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.

The dog shall be impounded until the final disposition as to whether the dog is vicious or potentially dangerous. Subject to the approval of the municipal health officer, the dog may be impounded in a facility or other structure agreeable to the owner.

C.4:19-20 Notification of owner of dog; hearing.

4. a. The animal control officer shall notify the official responsible for convening a hearing pursuant to section 5 and the municipal health officer within three working days that he has seized and impounded a dog pursuant to section 3 of this act, or that he has reasonable cause to believe that a dog has killed another domestic animal and that a hearing is required. The animal control officer shall through a reasonable effort attempt to determine the identity of the owner of any dog seized and impounded. If its owner cannot be identified within seven days, that dog may be humanely destroyed.

b. The official responsible for convening a hearing pursuant to section 5 of this act shall, within three working days of the determination of the identity of the owner of a dog seized and impounded pursuant to this act, notify by certified mail, return receipt requested the owner concerning the seizure and impoundment and the grounds for a hearing pursuant to section 5. This notice shall also require that the owner return within seven days, by certified mail or hand delivery, a signed statement indicating whether he wishes the hearing to be conducted or, if not, to relinquish ownership of the dog, in which case the dog may be humanely destroyed. If the owner cannot be notified by certified mail, return receipt requested, or refuses to sign for the certified letter, or does not reply to the certified letter with a signed statement within seven days of receipt, the dog may be humanely destroyed.

C.4:19-21 Selection of panel, qualifications.

5. a. The chief law enforcement officer of the municipality or the municipal health officer shall select a panel of three qualified individuals knowledgeable about dog behavior, and conduct a hearing, within 30 days of the receipt of the signed statement from the dog's owner as required by subsection b. of section 4 of this act, to de-

termine whether the dog impounded pursuant to section 3 of this act is vicious or potentially dangerous. In no case may the municipal official who is the supervisor of the animal control officer presenting the case select the panel. If neither the chief law enforcement officer of the municipality nor the municipal health officer is the animal control officer's supervisor, the municipal health officer shall select the panel and conduct the hearing. To the greatest extent practicable, the selected panel shall collectively represent a diverse background in dog behavior and in no case may all of the members of the panel be from the same discipline nor may a panel include any individual connected to the case. Upon request, the department may recommend to the municipal health officer or chief law enforcement officer of the municipality the names of qualified individuals to serve on the panel. For the purposes of this section, "qualified individuals" means:

- (1) veterinarians specializing in the treatment of dogs and cats;
- (2) American Kennel Club certified dog breed or obedience judges;
- (3) professional dog handlers who are members of the Professional Handlers Association or who are recommended by either a Professional Handlers Association member or an American Kennel Club certified dog breed judge;
- (4) professional dog obedience trainers who are members of the National Association of Dog Obedience Instructors or who are recommended by a National Association of Dog Obedience Instructors member or an American Kennel Club dog obedience judge;
- (5) dog behavior modification trainers who are recommended by a veterinarian specializing in the treatment of dogs and cats, an American Kennel Club dog obedience judge, a National Association of Dog Obedience Instructors member or persons in paragraph (6) below; or
- (6) animal behaviorists with at least a bachelor's degree in animal behavior specializing in the treatment of canine behavior disorders.

b. The official conducting the hearing shall notify the owner of the impounded dog by certified mail, return receipt requested, and the department of the date and time of the hearing, and the names of the panel members selected. During the hearing, the owner shall have the opportunity to present evidence to demonstrate that the dog is not vicious or potentially dangerous.

C.4:19-22 Dog declared vicious by panel; conditions.

6. a. The panel shall declare the dog vicious if it finds by a preponderance of the evidence that the dog:

(1) killed a person or caused serious bodily injury as defined in N.J.S.2C:11-1(b) to a person; or

(2) has engaged in dog fighting activities as described in R.S.4:22-24 and R.S.4:22-26.

b. A dog may not be declared vicious for inflicting death or serious bodily injury as defined in N.J.S.2C:11-1(b) upon a person if that person was committing or attempting to commit a crime or if that person was tormenting or inflicting pain upon the dog in such an extreme manner that an attack of such nature could be considered provoked.

c. If the panel declares a dog to be vicious, and no appeal is made of this ruling pursuant to subsection c. of section 9 of this act, the dog shall be destroyed in a humane and expeditious manner, except that no dog may be destroyed during the pendency of an appeal.

C.4:19-23 Dog declared potentially dangerous by panel; conditions.

7. a. The panel shall declare a dog to be potentially dangerous if it finds that the dog:

(1) caused bodily injury as defined in N.J.S.2C:11-1(a) to a person during an unprovoked attack, and poses a serious threat of bodily injury or death to a person, or

(2) killed another domestic animal, and

(a) poses a threat of serious bodily injury or death to a person;
or

(b) poses a threat of death to another domestic animal, or

(3) has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.

b. A dog shall not be declared potentially dangerous for:

(1) causing bodily injury as defined in N.J.S.2C:11-1(a) to a person if that person was committing or attempting to commit a crime or if that person was tormenting or inflicting pain upon the dog in such an extreme manner that an attack of such nature could be considered provoked, or

(2) killing a domestic animal if the domestic animal was the aggressor.

C.4:19-24 Registration of potentially dangerous dog.

8. If the panel declares the dog to be potentially dangerous, it shall issue an order and a schedule for compliance which, in part:

a. shall require the owner to comply with the following conditions:

(1) to apply, at his own expense, to the municipal clerk or other official designated to license dogs pursuant to section 2 of P.L.1941, c.151 (C.4:19-15.2), for a special municipal potentially dangerous dog license, municipal registration number, and red identification tag issued pursuant to section 14 of this act. The owner shall, at his own expense, have the registration number tattooed upon the dog in a prominent location. A potentially dangerous dog shall be impounded until the owner obtains a municipal potentially dangerous dog license, municipal registration number, and red identification tag;

(2) to display, in a conspicuous manner, a sign on his premises warning that a potentially dangerous dog is on the premises. The sign shall be visible and legible from 50 feet of the enclosure required pursuant to paragraph (3) of this subsection;

(3) to immediately erect and maintain an enclosure for the potentially dangerous dog on the property where the potentially dangerous dog will be kept and maintained, which has sound sides, top and bottom to prevent the potentially dangerous dog from escaping by climbing, jumping or digging and within a fence of at least six feet in height separated by at least three feet from the confined area. The owner of a potentially dangerous dog shall securely lock the enclosure to prevent the entry of the general public and to preclude any release or escape of a potentially dangerous dog by an unknowing child or other person. All potentially dangerous dogs shall be confined in the enclosure or, if taken out of the enclosure, securely muzzled and restrained with a tether approved by the animal control officer and having a minimum tensile strength sufficiently in excess of that required to restrict the potentially dangerous dog's movements to a radius of no more than three feet from the owner and under the direct supervision of the owner;

b. may require the owner to comply with the following conditions:

(1) to maintain liability insurance in an amount determined by the panel to cover any damage or injury caused by the potentially dangerous dog. The liability insurance, which may be separate from any other homeowner policy, shall contain a provision requiring the municipality in which the owner resides to be named as an additional

insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy;

(2) to tether the dog within the enclosure with a tether approved by the animal control officer and having a minimum tensile strength in excess of that required to fully secure the dog and of a length which prohibits the dog from climbing, jumping or digging out of the confined area.

C.4:19-25 Notification of outcome of hearing; appeal; rabies testing.

9. a. After the panel hearing, the official conducting the hearing shall notify in writing the owner of the dog, the animal control officer and the municipality in which the animal resides.

b. If the parties do not contest the panel's finding, the owner shall comply with the provisions of this act in accordance with a schedule established by the panel, but in no case more than 60 days subsequent to the date of determination.

c. If the panel's determination is contested, the contesting party may, within five days of such determination, bring a petition in the municipal court within the jurisdiction where the owner of the dog resides, requesting that the court conduct its own hearing on whether the dog should be declared vicious or potentially dangerous or whether the conditions imposed on the owner of a potentially dangerous dog are appropriate.

d. After service of the notice upon the parties to the action, the court shall conduct a hearing de novo and make its own determination.

e. If the court finds by a preponderance of the evidence that the dog is vicious, the dog shall be destroyed in a humane and expeditious manner, except that no dog may be destroyed during the pendency of an appeal.

f. If the court finds by a preponderance of the evidence that the dog is potentially dangerous, the court shall establish a schedule to insure compliance with this act, but in no case may complete compliance be allowed more than 60 days subsequent to the date of the court's determination.

g. If the dog has bitten or exposed a person within 10 days previous to the time of euthanasia, its head shall be transported to the New Jersey State Department of Health laboratory for rabies testing.

C.4:19-26 Liability of owner for cost of impounding, destroying dog.

10. If a dog is declared vicious or potentially dangerous, and all appeals pertaining thereto have been exhausted, the owner of the dog shall be liable to the municipality in which the dog is impounded for the costs and expenses of impounding and destroying the dog. The municipality may establish by ordinance a schedule of these costs and expenses. The owner shall incur the expense of impounding the dog in a facility other than the municipal pound, regardless of whether the dog is ultimately found to be vicious or potentially dangerous.

C.4:19-27 Right to hearing for subsequent actions of dog.

11. If the municipal court or the panel finds that the dog is not vicious or potentially dangerous, the official responsible for convening a hearing pursuant to section 5 of this act shall retain the right to convene a hearing to determine whether the dog is vicious or potentially dangerous for any subsequent actions of the dog.

C.4:19-28 Obligations of owner of potentially dangerous dog.

12. The owner of a potentially dangerous dog shall:

a. comply with the provisions of this act in accordance with a schedule established by the panel, but in no case more than 60 days subsequent to the date of determination;

b. notify the licensing authority, local police department or force, and the animal control officer if a potentially dangerous dog is at large, or has attacked a human being or killed a domestic animal;

c. notify the licensing authority, local police department or force, and the animal control officer within 24 hours of the death, sale or donation of a potentially dangerous dog;

d. prior to selling or donating the dog, inform the prospective owner that the dog has been declared potentially dangerous;

e. upon the sale or donation of the dog to a person residing in a different municipality, notify the department and the licensing authority, police department or force, and animal control officer of that municipality of the transfer of ownership and the name, address and telephone of the new owner; and

f. in addition to any license fee required pursuant to section 3 of P.L.1941, c.151 (C.4:19-15.3), pay a potentially dangerous dog license fee to the municipality as provided by section 15 of this act.

C.4:19-29 Violation by owner; fine, seizure, impoundment of dog.

13. The owner of a potentially dangerous dog who is found by a

preponderance of the evidence to have violated this act, or any rule or regulation adopted pursuant thereto, or to have failed to comply with a panel's order shall be subject to a fine of not more than \$1,000 per day of the violation, and each day's continuance of the violation shall constitute a separate and distinct violation. The municipal court shall have jurisdiction to enforce this section. An animal control officer is authorized to seize and impound any potentially dangerous dog whose owner fails to comply with the provisions of this act, or any rule or regulation adopted pursuant thereto, or a panel's order. The municipal court may order that the dog so seized and impounded be destroyed in an expeditious and humane manner.

C.4:19-30 Municipality to register, identify potentially dangerous dogs; publicize phone numbers to report violations.

14. Each municipality shall:

a. issue a potentially dangerous dog registration number and red identification tag along with a municipal potentially dangerous dog license upon a demonstration of sufficient evidence by the owner to the animal control officer that he has complied with the panel's orders. The last three digits of each potentially dangerous dog registration number issued by a municipality will be the three number code assigned to that municipality in the regulations promulgated pursuant to section 17 of this act. The animal control officer shall verify, in writing, compliance to the municipal clerk or other official designated to license dogs in the municipality;

b. publicize a telephone number for reporting violations of this act. This telephone number shall be forwarded to the department and any changes in this number shall be reported immediately to the department.

C.4:19-31 Municipality to establish fee for potentially dangerous dog license.

15. Every municipality may, by ordinance, fix the sum to be paid annually for a potentially dangerous dog license and each renewal thereof, which sum shall not be less than \$150 nor more than \$700. In the absence of any local ordinance, the fee for all potentially dangerous dog licenses shall be \$150.

C.4:19-32 Monthly inspection to verify compliance.

16. The animal control officer shall inspect the enclosure and the owner's property at least monthly to determine continuing compliance with paragraphs (2) and (3) of subsection a. of section 8 of this act.

C.4:19-33 Statewide system for registration of potentially dangerous dogs.

17. The department shall promulgate regulations establishing a

uniform Statewide system for municipal registration of potentially dangerous dogs. The regulations shall assign each municipality or other authority registering potentially dangerous dogs a three number code. This three number code shall comprise the last three digits of each registration number issued by that municipality or authority for potentially dangerous dogs and shall be preceded on each dog's identification by a number sequentially issued by the municipality.

C.4:19-34 Actions subject to "New Jersey Tort Claims Act."

18. Any action undertaken pursuant to the provisions of this act shall be deemed to be an exercise of a government function and shall be subject to the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

19. The department shall, within 120 days of the effective date of this act and pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations as may be necessary to effectuate the purposes of this act.

C.4:19-35 Fines, fees, used for enforcement by municipalities.

20. All fines and fees collected or received by the municipality pursuant to sections 13 and 15 of this act shall be deposited in a special account and used by the municipality to administer and enforce the provisions of this act.

C.4:19-36 Act to supersede inconsistent local laws.

21. The provisions of this act shall supersede any law, ordinance, or regulation concerning vicious or potentially dangerous dogs, any specific breed of dog, or any other type of dog inconsistent with this act enacted by any municipality, county, or county or local board of health.

C.4:19-37 Exemptions for dogs used for law enforcement purposes.

22. The provisions of this act shall not apply to dogs used for law enforcement activities.

23. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 308

AN ACT concerning disability retirement benefits in the State Police Retirement System of New Jersey, amending P.L.1965, c.89 and supplementing P.L.1961, c.49 (C.52:14-17.25 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 9 of P.L.1965, c.89 (C.53:5A-9) is amended to read as follows:

C.53:5A-9 Retirement on ordinary disability retirement allowance; payments upon death.

9. a. Upon the written application by a member in service, by one acting in his behalf or by the State, any member, under 55 years of age, who has had four or more years of creditable service as a State policeman or four or more years of creditable service as a person formerly employed by the Division of Motor Vehicles or the Division of State Police prior to appointment as provided in section 3 of P.L.1983, c.403 (C.39:2-9.3), may be retired, not less than one month next following the date of filing such application with the retirement system, on an ordinary disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the Division of State Police which the Superintendent of State Police is willing to assign to him and that such incapacity is likely to be permanent and of such an extent that he should be retired.

b. Upon retirement for ordinary disability, a member shall receive an ordinary disability retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions; and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1½% of final compensation multiplied by his number of years of creditable service, but in no event shall the total allowance be less than 40% of final compensation.

c. Notwithstanding the provisions of subsection b. of this section, a member of the retirement system who has more than 20 but less

than 25 years of creditable service and who is required to retire pursuant to subsection a. of this section upon application by the State made on or after October 1, 1988, shall receive an ordinary disability retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of the member's aggregate contributions; and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 50% of final compensation plus 2% of final compensation multiplied by the number of years of creditable service over 20 but not over 25.

Any increase in the disability retirement allowance of a member who was required to retire on or after October 1, 1988 and prior to the effective date of this amendatory and supplementary act, P.L.1989, c.308, shall be retroactive to the date of retirement.

d. Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to the member's beneficiary an amount equal to three and one-half times the final compensation received by the member in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained 55 years of age, the amount payable shall equal one-half of such compensation instead of three and one-half times such compensation.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 309

AN ACT providing for the payment of a death benefit to the beneficiary, under life insurance coverage through the Public Employees' Retirement System, of Vincent Lopez, late of Cedar Grove.

WHEREAS, In 1959 Vincent Lopez, of the Township of Cedar Grove in the County of Essex, retired from the Cedar Grove Police Department on a disability retirement allowance from the Police and Firemen's Retirement System;

WHEREAS, Mr. Lopez resumed public employment in October 1980 as a security guard at Montclair State College in the Town of Montclair, Essex County;

WHEREAS, In connection with that employment and at the direction of his employer, Mr. Lopez submitted an application for enrollment in the Public Employees' Retirement System, on which application he disclosed both his prior service with the Cedar Grove Police Department and his former membership in the pension fund from which he was receiving the retirement allowance;

WHEREAS, Notwithstanding that a former member of a public retirement system who has been granted a pension or retirement allowance for any cause other than vesting or deferred retirement and who becomes employed in a position which makes him eligible to be a member of another public retirement system is prohibited under P.L.1968, c.23 (C.43:3C-1 et seq.) from being enrolled in that other public retirement system, Mr. Lopez's application was accepted by his employer and by the New Jersey Division of Pensions, which is responsible for the administration of both the Police and Firemen's Retirement System and the Public Employees' Retirement System, and he was enrolled in the latter system;

WHEREAS, Pursuant to Mr. Lopez's enrollment, contributions towards a retirement benefit and contributory life insurance coverage were erroneously deducted from his salary and paid into the Public Employees' Retirement System in the same manner as for persons properly enrolled in that retirement system;

WHEREAS, As a result of ill health, Mr. Lopez was compelled to take an approved sick leave of absence, without pay, from his job at Montclair State College in September 1986 and, while on that leave of absence, died on March 28, 1987;

WHEREAS, Under the Public Employees' Retirement System, a beneficiary of a member who dies other than as the result of a service-connected accident and who has, at the time of death, contributory life insurance coverage under section 57 of P.L.1954, c.84 (C.43:15A-57) is entitled to receive three times the compensation received by the member in the last year of creditable service; and

WHEREAS, The board of trustees of the Public Employees' Retirement System has, on the ground of Mr. Lopez's improper enrollment, denied Mrs. Lopez's application to receive the death benefits to which her late husband's membership in and contributions to the retirement system would otherwise entitle her under law; now, therefore,

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. The board of trustees of the Public Employees' Retirement System is authorized and directed to pay to Mrs. Louise Lopez, of the Township of Cedar Grove in the County of Essex, an amount equal to the sum of the noncontributory death benefit and the contributory death benefit, under sections 41 and 57, respectively, of P.L.1954, c.84 (C.43:15A-41 and 43:15A-57) applicable in the case of her husband as a properly enrolled member of the retirement system.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 310

AN ACT concerning the conveyance of development easements on certain lands and amending P.L.1983, c.32 and P.L.1989, c.28.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 17 of P.L.1983, c.32 (C.4:1C-24) is amended to read as follows:

C.4:1C-24 Development easement, soil, water conservation project; application by landowners in farmland preservation program.

17. a. (1) Landowners within a municipally approved program or other farmland preservation program shall enter into an agreement with the board, and the municipal governing body, if appropriate, to retain the land in agricultural production for a minimum period of eight years.

(2) Any landowner whose land is within a municipally approved program or other farmland preservation program or any landowner whose land qualifies for differential property tax assessment pursuant

to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and which is included in an agricultural development area, may enter into an agreement to convey a development easement on the land to the board. The development easement may be permanent or for a term of 20 years.

(3) Any agreement entered into pursuant to paragraph (1) of this subsection shall constitute a restrictive covenant and shall be filed with the municipal tax assessor and recorded with the county clerk in the same manner as a deed. Any development easement conveyed pursuant to paragraph (2) of this subsection shall be filed with the municipal tax assessor and recorded with the county clerk in the same manner as a deed. The recording of any such agreement or development easement of limited term shall include notification that the committee may exercise the first right and option to purchase a fee simple absolute interest in the land pursuant to P.L.1989, c.28 (C.4:1C-38 et al.).

b. A landowner, or a farm operator as an agent for the landowner, whose land is within a municipally approved program or other farmland preservation program, or is subject to a development easement conveyed pursuant to subsection a. of this section, shall be eligible to, and may, apply to the local soil conservation district and the board for a grant for a soil and water conservation project approved by the State Soil Conservation Committee, subject to the provisions of P.L.1983, c.32 (C.4:1C-11 et al.).

c. (Deleted by amendment, P.L.1989, c.310.)

d. Approval by the local soil conservation district and the board for grants for soil and water conservation projects shall be contingent upon a written agreement by the person who would receive funds that the project shall be maintained for a specified period of not less than three years, and shall be a component of a farmland conservation plan approved by the local soil conservation district.

e. If the landowner applying for funds for a soil and water conservation project pursuant to this section provides 50% of those funds without assistance from the county, the local soil conservation district shall review, approve, conditionally approve or disapprove the application. The committee shall certify that the land on which the soil and water conservation project is to be conducted has had a development easement conveyed from it pursuant to subsection a. of this section or is part of a municipally approved program or other farmland preservation program.

2. Section 18 of P.L.1983, c.32 (C.4:1C-25) is amended to read as follows:

C.4:1C-25 Public body may not exercise right of eminent domain; begin construction.

18. The provisions of any law to the contrary notwithstanding, no public body shall exercise the power of eminent domain for the acquisition of land in a municipally approved program or from which a development easement has been conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24), nor shall any public body advance a grant, loan, interest subsidy or other funds within a municipally approved program, or with regard to land from which a development easement has been conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24), for the construction of dwellings, commercial facilities, transportation facilities, or water or sewer facilities to serve nonfarm structures unless the Governor declares that the action is necessary for the public health, safety and welfare and that there is no immediately apparent feasible alternative. If the Governor so declares, the provisions of section 12 of P.L.1983, c.32 (C.4:1C-19) shall apply.

3. Section 19 of P.L.1983, c.32 (C.4:1C-26) is amended to read as follows:

C.4:1C-26 Filing of complaint against agricultural operation.

19. a. In all relevant actions filed subsequent to the effective date of P.L.1983, c.32 (C.4:1C-11 et al.), there shall exist an irrebuttable presumption that no agricultural operation, activity or structure which is conducted or located within a municipally approved program, or on land from which a development easement has been conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24), and which conforms to agricultural management practices approved by the committee, and all relevant federal or State statutes or rules and regulations adopted pursuant thereto and which does not pose a direct threat to public health and safety shall constitute a public or private nuisance, nor shall any such operation, activity or structure be deemed to otherwise invade or interfere with the use and enjoyment of any other land or property.

b. In the event that any person wishes to file a complaint to modify or enjoin an agricultural operation or activity under the belief that the operation or activity violates the provisions of subsection a. of this section, that person shall, 30 days prior to instituting any action in a court of competent jurisdiction, petition the board to act as an informal mediator.

c. The board shall, in the course of its regular or special meetings

but within 30 days of receipt of the petition, seek to facilitate the resolution of any dispute. No statement or expression of opinion made in the course of a meeting concerning the dispute shall be deemed admissible in any subsequent judicial proceeding thereon.

4. Section 20 of P.L.1983, c.32 (C.4:1C-27) is amended to read as follows:

C.4:1C-27 Agricultural activities exempt from emergency restrictions.

20. The provisions of any law, rule, regulation or ordinance to the contrary notwithstanding, agricultural activities on land in a municipally approved program, or on land from which a development easement has been conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24), shall be exempt from any emergency restrictions instituted on the use of water and energy supplies unless the Governor declares that the public safety and welfare require otherwise.

5. Section 21 of P.L.1983, c.32 (C.4:1C-28) is amended to read as follows:

C.4:1C-28 Acceptable construction standard for farm structure.

21. a. The provisions of any law, rule, regulation or ordinance to the contrary notwithstanding, any criteria developed by a land grant college or a recognized organization of agricultural engineers and approved by the committee for farm structure design shall be the acceptable minimum construction standard for a farm structure located in a municipally approved program or other farmland preservation program or on land from which a development easement has been conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24).

b. The use by a farm owner or operator of a farm structure design approved pursuant to subsection a. of this section shall, the provisions of any law, rule, regulation or ordinance to the contrary notwithstanding, be exempt from any requirement concerning the seal of approval or fee of an architect or professional engineer.

6. Section 1 of P.L.1989, c.28 (C.4:1C-38) is amended to read as follows:

C.4:1C-38 Acquisition of land in name of State.

1. In addition to those powers and duties provided for by section 5 of P.L.1983, c.31 (C.4:1C-6) and by sections 5 and 6 of P.L.1983, c.32 (C.4:1C-5 and C.4:1C-7), the State Agriculture Development Committee also shall have the power to purchase and acquire, in the name of the State, fee simple absolute interest in land in accordance with section 2 of P.L.1989, c.28 (C.4:1C-39).

7. Section 2 of P.L.1989, c.28 (C.4:1C-39) is amended to read as follows:

C.4:1C-39 Sale of fee simple absolute interest in land; notice.

2. a. A landowner who wishes to sell a fee simple absolute interest in land that becomes enrolled after the effective date of P.L.1989, c.28 (C.4:1C-38 et al.) in a municipally approved program or other farmland preservation program established pursuant to sections 14 and 13 of P.L.1983, c.32 (C.4:1C-21 and 4:1C-20), respectively, shall give to the committee written notice, by certified mail, that a contract of sale has been executed for the property. The notice shall set forth the terms and conditions of the executed contract of sale and shall have attached a copy of that contract. The notice of executed contract of sale shall also include any other information that the committee may reasonably require by regulation. The committee shall have the first right and option to purchase the land upon substantially similar terms and conditions, which right and option shall be exercisable as provided by this section. If the committee chooses to exercise the first right and option, the committee shall give notice of that intent to the landowner within a period of 30 days following the date of receipt of the notice of executed contract of sale. The committee shall submit its offer to match the terms and conditions of the executed contract of sale to the landowner within the 60 days following the expiration of the 30-day period. If no notice is given within the 30-day period that the committee intends to exercise the first right and option, or if no offer is submitted to the landowner within the 60-day period following the 30-day period, the owner may at the expiration of the 30-day period or the 60-day period, as the case may be, convey the land to the proposed purchaser named in the executed contract of sale upon the terms and conditions specified therein, or to the proposed purchaser's assignee as provided in that executed contract of sale. If the owner fails to convey the land to the named proposed purchaser or an assignee thereof pursuant to the executed contract of sale, the land shall again become subject to the committee's first right and option to purchase as provided by this section. A landowner may elect to convey the land to the committee upon the exercise of the committee's first right and option to purchase without breaching the original contract of sale, notwithstanding that the committee's offer is different than, or provides for lower consideration than, that in the original executed contract of sale.

b. The provisions of this section shall apply to any sale of a fee simple absolute interest in land that becomes enrolled in a munici-

pally approved program or other farmland preservation program subsequent to the effective date of P.L.1989, c.28 (C.4:1C-38 et al.), except that any person enrolled in a municipally approved program or other farmland preservation program prior to the effective date of P.L.1989, c.28 (C.4:1C-38 et al.) may agree to provide this first right and option to purchase in a manner consistent with this section.

c. The provisions of subsection a. of this section shall apply to the sale of a fee simple absolute interest in land from which a development easement of limited term has been conveyed pursuant to paragraph (2) of subsection a. of section 17 of P.L.1983, c.32 (C.4:1C-24) during the term of that development easement and for one year thereafter.

8. Section 3 of P.L.1989, c.28 (C.4:1C-40) is amended to read as follows:

C.4:1C-40 Certificate acknowledging landowner compliance.

3. A certificate executed and acknowledged by the committee stating that the provisions of section 2 of P.L.1989, c.28 (C.4:1C-39) have been met by the landowner, and that the first right and option to purchase of the committee has terminated, shall be conclusive upon the committee and the owner in favor of all persons who rely thereon in good faith, and this certificate shall be furnished to any landowner who has complied with the provisions of section 2 of P.L.1989, c.28 (C.4:1C-39).

9. Section 5 of P.L.1989, c.28 (C.4:1C-42) is amended to read as follows:

C.4:1C-42 Acquired land held in name of State; sale, conditions.

5. Any land acquired by the committee pursuant to the terms of P.L.1989, c.28 (C.4:1C-38 et al.) shall be held of record in the name of the State and shall be offered for sale by the committee with a deed restriction permanently prohibiting nonagricultural development. Land sold with a deed restriction permanently prohibiting nonagricultural development pursuant to this section is exempt from the provisions of section 2 of P.L.1989, c.28 (C.4:1C-39).

10. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 311

AN ACT concerning the remediation of contaminated water supplies, amending and supplementing P.L.1988, c.106, and amending P.L.1985, c.408.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1988, c.106 (C.58:12A-22) is amended to read as follows:

C.58:12A-22 Water supply replacement trust fund; establishment; uses of fund; interest rate on loans; "hazardous substance" defined.

1. a. There is established in the Department of Environmental Protection a non-lapsing revolving fund to be known as the "Water Supply Replacement Trust Fund," hereinafter referred to as the fund. The department shall administer the fund, and monies in the fund shall be used to (1) provide loans to municipalities or municipally-owned or privately-owned public water systems as defined in section 3 of P.L.1977, c.224 (C.58:12A-3) for the purposes of providing a permanent alternate water supply to persons whose principal source of potable water is contaminated or is threatened with contamination by hazardous substances as identified by the department or fails to meet the State primary drinking water standards contained in regulations developed pursuant to this act, and (2) to provide funds to the department to conduct feasibility studies to determine appropriate remedies for contaminated potable water supplies, to conduct confirmatory tests to determine the presence of hazardous substances in potable water supplies, to study the extent to which water supplies are contaminated or are threatened by contamination with hazardous substances, to develop recommendations for remediating contaminated or threatened water supplies, and to defray administrative costs incurred by the department in implementing the provisions of this act. Payments of principal and interest on loans issued under the authority of this act shall be deposited in the fund, and shall remain available for further disbursements as new loans to be awarded pursuant to this act. Any monies deposited in the "Water Supply Replacement Trust Fund" are hereby appropriated to the Department of Environmental Protection to carry out the purposes of this act.

b. Loans made to local government units pursuant to this act shall bear interest at a rate fixed by the Treasurer, which rate shall not exceed 2% per year for a term of not more than 20 years.

c. As used in this act, "hazardous substance" means any substance defined as a hazardous substance by the Department of Environmental Protection pursuant to rules and regulations adopted pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b).

2. Section 2 of P.L.1988, c.106 (C.58:12A-23) is amended to read as follows:

C.58:12A-23 Funding of study to determine extent water supplies contaminated with hazardous substances; allocation for loans to municipalities to provide alternate water supply for persons with contaminated water supply.

2. a. Of the monies made available for the cleanup of hazardous discharge sites pursuant to P.L.1986, c.144 (C.54:10A-5.1 et seq.) and transferred to the "Water Supply Replacement Trust Fund" pursuant to section 3 of this act, the sum of \$1,000,000 is allocated for the purpose of funding a study to be conducted by the department to determine the extent to which water supplies are contaminated or are threatened by contamination with hazardous substances and to develop recommendations for dealing with such contaminated or threatened water supplies, and \$2,000,000.00 is allocated for conducting site specific feasibility studies authorized pursuant to section 1 of this act.

b. Of the monies made available for the cleanup of hazardous discharge sites pursuant to P.L.1986, c.144 (C.54:10A-5.1 et seq.) and transferred to the "Water Supply Replacement Trust Fund" pursuant to section 3 of this act, the sum of \$57,000,000 is allocated for the purpose of providing loans to municipalities or municipally-owned or privately-owned public water systems as defined in section 3 of P.L.1977, c.224 (C.58:12A-3) for the purpose of providing a permanent alternate water supply to persons whose principal source of potable water is contaminated or is threatened with contamination by hazardous substances as identified by the department.

3. Section 4 of P.L.1988, c.106 (C.58:12A-25) is amended to read as follows:

C.58:12A-25 Loans to qualifying municipality or municipally-owned or privately-owned public water supply system for extension of public water supply system to residential area.

4. The Department of Environmental Protection shall utilize \$8,000,000.00 of the monies deposited in the "Water Supply Replacement Trust Fund" to provide loans to a qualifying municipality for the extension of a public water supply system to a residential area or to a municipally-owned or privately-owned public water supply system for the extension of a public water supply system to a residential area in a qualifying municipality. A qualifying municipality is

one with a residential area of more than 1,500 residential units that has been found by the local department of health, or board of health, and the county board of health, or department of health, to have at least 25% of the wells supplying potable water to the area with contaminants at the Class II, Class III or Class IV interim action levels for hazardous contaminants in drinking water of the Department of Environmental Protection, or in excess of the maximum contaminant levels adopted by the department pursuant to P.L.1983, c.443 (C.58:12A-12 et seq.), as may be applicable, and:

a. (1) The potable water supply for the residential area is deemed by the county board of health or department of health to be unfit for human consumption, and (2) the governing body of the municipality has adopted a resolution banning new construction in the area pending connection of the area to a public water supply system; or

b. The Department of Environmental Protection determines all or a portion of the ground water serving the residential area to be a well-restriction area.

A municipality applying for a loan under this section shall certify to the department the estimated costs for extending a public water supply system to an eligible residential area that satisfies the criteria of this section. Monies from a loan made hereunder are to be expended solely for the purpose of expanding the public water supply system to residences with contaminated wells.

C.58:12A-22.1 Radium-contaminated water supply sub-account; indication of radium; confirmatory test; loans.

4. a. There is established in the "Water Supply Replacement Trust Fund" established pursuant to section 1 of P.L.1988, c.106 (C.58:12A-22) a Radium-Contaminated Water Supply sub-account. Monies in the Radium-Contaminated Water Supply sub-account shall be used by the Department of Environmental Protection for the purpose of testing and mapping those aquifers identified by the department to determine the extent of radium contamination of the aquifer, and by the department or a municipal or regional health agency certified by the department pursuant to section 15 of P.L.1977, c.443 (C.26:3A2-33) for the purpose of financing confirmatory tests to determine the presence of radium in potable water supplies.

b. Any owner of a single family residence who has conducted a gross alpha or a gross beta screen test of the potable water supply relied upon by the occupants of the single family residence, the

results of which indicate the presence of radium in the potable water supply in excess of a safety level established by the department, may petition the department to conduct a confirmatory test, which may be based on representative sampling, to determine the accuracy of the initial test. Upon receipt of such a request, the department shall conduct the confirmatory test. No request for a confirmatory test may be made by a person pursuant to this subsection until the department has completed the testing and mapping of aquifers required pursuant to subsection a. of this section.

c. Of the amount appropriated to the Radium-Contaminated Water Supply sub-account, the sum of \$1,000,000 is allocated to the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) and dedicated for the purposes of providing low interest loans to owners of single family residences whose source of potable water is contaminated or threatened by contamination with radium to provide a permanent alternative potable water supply or adequate treatment technology.

The agency shall establish a program to provide the loans authorized pursuant to this subsection. The loans issued pursuant to this subsection shall bear an interest of not more than 2 percent per year, and shall be for a term of not more than five years. The maximum amount for any single loan shall be \$10,000. Loan applicants shall provide certification from the Department of Environmental Protection or from a municipal or regional health agency certified pursuant to section 15 of P.L.1977, c.443 (C.26:3A2-33) of the contamination or the threat of this contamination when applying for loans on forms prescribed by the agency.

d. There is appropriated to the Radium-Contaminated Water Supply sub-account the sum of \$3,500,000 from the "Clean Waters Fund" established pursuant to P.L.1976, c.92 from amounts in the fund received as repayments of emergency water supply loans made pursuant to P.L.1981, c.28.

5. Section 4 of P.L.1985, c.408 (C.26:2D-62) is amended to read as follows:

C.26:2D-62 Public information and education program.

4. The Departments of Environmental Protection and Health shall also coordinate to establish a public information and education program to inform the public of the potential health effects of the presence of radon gas and radon progeny in residential dwellings, and the presence of radium in potable water supplies, and the geographic

areas in the State subject to an actual or potential threat of danger and the measures which can be taken to protect the health, safety, and welfare of the citizens of the State. This public information and education program shall include:

a. A cooperative program with county and local health departments to facilitate health education in response to requests from the public; and

b. A toll-free public telephone information service within the Department of Environmental Protection to answer questions from residents of the State concerning radon gas and radon progeny contamination, or radium contamination, or both, as the case may be. The availability of the public telephone information service shall be published in the major newspapers circulated in the geographic areas of this State subject to an actual or potential threat of danger from radon gas or radon progeny contamination, or from the presence of radium in potable water supplies, as appropriate.

6. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 312

AN ACT concerning secondary mortgage licensees and amending P.L.1970, c.205.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.1970, c.205 (C.17:11A-36) is amended to read as follows:

C.17:11A-36 License; individuals; corporations or other entities; two or fewer loans per year.

3. a. No person shall engage in the secondary mortgage loan business in this State unless such person shall first obtain a license under this act. For the purpose of this act, a person is deemed to be engaged in the secondary mortgage loan business in this State if: (a) such person advertises, causes to be advertised, solicits, negotiates, offers to make or makes a secondary mortgage loan in this State, whether directly or by any person acting for his benefit; or (b) such person becomes the subsequent holder of a promissory note

or mortgage, indenture or any other similar instrument or document received in connection with a secondary mortgage loan. A real estate broker licensed pursuant to the provisions of the law of this State or an attorney authorized to practice law in this State shall not be required to obtain a license to negotiate a secondary mortgage loan in the normal course of the business of a real estate broker or attorney.

b. No corporation, partnership, association or other entity, other than an individual, shall obtain a license unless at least one officer, partner, member or other principal is licensed under the "Secondary Mortgage Loan Act," P.L.1970, c.205 (C.17:11A-34 et seq.).

c. Any person who makes two or fewer secondary mortgage loans in this State during any calendar year which are at an interest rate which is not in excess of the usury rate in existence at the time the loan is made, as established in accordance with the law of this State, and on which the borrower has not agreed to pay, directly or indirectly, any charge, cost, expense or any fee whatsoever, other than said interest, shall not be required to obtain a license under the provisions of P.L.1970, c.205 (C.17:11A-34 et seq.).

2. Section 13 of P.L.1970, c.205 (C.17:11A-46) is amended to read as follows:

C.17:11A-46 Prohibitions.

13. A secondary mortgage loan licensee shall not:

a. Transact any business subject to the provisions of this act under any other name or at any other location except that designated in his license. For the purpose of this section, the transaction of business includes, but is not limited to, the signing of any instrument, document or any other form by the borrower, except that a borrower's application for a secondary mortgage loan need not be signed in the office of the licensee and that a secondary mortgage loan need not be closed at the office of a licensee provided that it is closed in New Jersey at the office of an attorney admitted to practice in this State. A licensee who changes his name or place of business shall immediately notify the commissioner who shall issue a certificate to the licensee, which shall specify the licensee's new name or address.

b. Photocopy or otherwise reproduce his license.

c. Request that a borrower incorporate in connection with a secondary mortgage loan or aid or abet such a scheme.

d. Make a secondary mortgage loan which has been referred by a retail seller, who, in connection with such referral, has required the borrower to purchase personal property or services or has indicated that such purchase is necessary as a condition precedent for such loan.

e. Charge an application fee or make any other charge or accept an advance deposit prior to the time a secondary mortgage loan is closed.

f. Require or accept from a borrower any collateral or security for a secondary mortgage loan other than a mortgage, indenture or any other similar instrument or document which creates a lien upon any real property or an interest in real property including, but not limited to, shares of stock in a cooperative corporation.

g. Contract for, charge, receive or collect directly or indirectly, any of the following in connection with a secondary mortgage loan: a broker's or finder's fee; commission; discount; expense; fine; penalty; points; premium, or any other thing of value other than the charges authorized by this act; except the expenses incurred on actual sale of the real property in foreclosure proceedings or upon the entry of judgment, which are otherwise authorized by law; provided, however, a licensee may require a borrower to pay a reasonable legal fee at the time of the execution of the secondary mortgage loan, provided any such legal fee shall represent a charge actually incurred in connection with said secondary mortgage loan and shall not be paid to a person except an attorney authorized to practice law in this State; provided, further, that such legal fee shall be evidenced by a statement from such attorney issued to the licensee.

h. Assign, sell or transfer a secondary mortgage loan to a person other than a banking institution as defined in section 1 of P.L.1948, c.67 (C.17:9A-1), association, as defined in section 5 of P.L.1963, c.144 (C.17:12B-5), or another secondary mortgage loan licensee, the Federal National Mortgage Association created pursuant to section 302 of the National Housing Act, 48 Stat. 1246 (12 U.S.C. § 1717), the Federal Home Loan Mortgage Corporation created pursuant to section 303 of the "Federal Home Loan Mortgage Corporation Act," Pub.L.91-351 (12 U.S.C. § 1452), or other persons or entities as from time to time approved by the commissioner to facilitate and assure the steady flow of secondary mortgage funds into the State. Notwithstanding any other provisions of this act, such persons or entities need not be licensed under the act to purchase or accept such an assignment or transfer of a secondary mortgage loan.

i. Solicit business through any other person by paying, directly or indirectly, for such business referred to the licensee by any such person, except as described in subsection j. of this section.

j. Solicit business, directly or indirectly, for any other licensee, lender, retail seller of personal property or services or for any other person, whether in this or any other state, except that a licensee may solicit on behalf of another licensee or lender expressly authorized to make secondary mortgage loans in this State if (1) such solicitation results in no additional cost or expense to the borrower; and (2) the application and all advertising in connection therewith clearly disclose the identity of the person or entity which will be making the loan. If those conditions are met, a licensee may collect a fee or a commission from the lender as consideration for the solicitation.

k. Advertise, cause to be advertised or otherwise solicit whether orally, in writing, by telecast, by broadcast or in any other manner:

(1) That he is licensed by, or that his business is under the supervision of, the State of New Jersey or the Department of Banking, except that a licensee may advertise that he is "licensed pursuant to the 'Secondary Mortgage Loan Act' "; provided, however, that for the purpose of raising capital, no such advertisement shall be permitted if it is to be used in connection with a public solicitation for such funds.

(2) Any name, address or telephone number other than the licensee's own name, address and telephone number in this State, except as permitted in paragraph (3) of this subsection.

(3) The word "bank" or any term inferring that the licensee is or is associated with a bank provided, however, that nothing in this paragraph shall be deemed to prohibit a licensee which is owned by or affiliated with a banking institution, as defined pursuant to section 1 of P.L.1948, c.67 (C.17:9A-1), or a holding company which owns or controls a banking institution from using the name of the banking institution or the holding company in its advertising.

(4) The amount of the interest to be charged, unless such charge is also expressed as an annual percentage rate.

(5) Any statement or representation which is false, misleading or deceptive and, provided further, a written or other visual advertisement shall include the licensee's name, address and telephone number in this State and the phrase "Secondary Mortgage Loans" in 10-point bold type or larger.

(6) Any statement or representation that the licensee will provide "immediate approval" of a loan application or "immediate closing" of a loan or will afford unqualified access to credit.

1. Make or offer to make any secondary mortgage loan which would not be a prudent loan.

3. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 313

AN ACT concerning State psychiatric hospitals and amending R.S.30:4-160.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.30:4-160 is amended to read as follows:

State hospitals.

30:4-160. The New Jersey State Hospitals, designated in R.S.30:1-7 as psychiatric hospitals, shall include the existing buildings and lands of Ancora Psychiatric Hospital, Greystone Park Psychiatric Hospital, Marlboro Psychiatric Hospital, Senator Garrett W. Hagedorn Center for Geriatrics, Trenton Psychiatric Hospital and The Forensic Psychiatric Hospital, and all grounds or places where the patients thereof may from time to time be maintained, kept, housed or employed.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 314

AN ACT providing for the certification of EMT-D's and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.26:2K-39 Definitions.

1. As used in this act:

“Commissioner” means the Commissioner of Health.

“Emergency medical service” means a program in a hospital staffed 24 hours-a-day by a licensed physician trained in emergency medicine.

“Emergency medical technician” means a person trained in basic life support services as defined in section 1 of P.L.1985, c.351 (C.26:2K-21) and who is certified by the Department of Health to perform these services.

“EMT-D” means an emergency medical technician who is certified by the commissioner to perform cardiac defibrillation.

“Pre-hospital care” means those emergency medical services rendered to emergency patients at the scene of a traffic accident or other emergency and during transportation to emergency treatment facilities, and upon arrival within those facilities.

C.26:2K-40 Certification as EMT-D.

2. a. An emergency medical technician who has been certified by the commissioner as an EMT-D may perform cardiac defibrillation, with or without the assistance of another EMT-D, according to rules and regulations adopted by the commissioner.

b. The commissioner shall establish written standards and application procedures which an emergency medical technician shall meet in order to obtain certification as an EMT-D. The commissioner shall certify a candidate who provides evidence of satisfactory completion of an educational program which includes training in the performance of cardiac defibrillation and which is approved by the commissioner, and who passes an examination in the performance of cardiac defibrillation which is approved by the commissioner.

c. The commissioner shall maintain a register of all applications for certification as an EMT-D which shall include, but not be limited to:

- (1) The name and residence of the applicant;
- (2) The date of the application;
- (3) Whether the applicant was rejected or approved and the date of that action.

d. The commissioner shall annually compile a list of certified EMT-D's which shall be available to the public.

e. A fee may be charged to a person who is enrolled in an educational program approved by the Department of Health which includes training in the performance of cardiac defibrillation, to cover the costs of training and testing for certification as an EMT-D.

C.26:2K-41 Revocation of certification.

3. The commissioner, after notice and hearing, may revoke the certification of an EMT-D for violation of any provisions of this act or of any rule or regulation adopted pursuant to this act.

C.26:2K-42 False advertising; impersonation of EMT-D.

4. a. A person shall not advertise or disseminate information to the public that the person is an EMT-D unless the person is authorized to do so pursuant to this act.

b. A person shall not impersonate or refer to himself as an EMT-D unless he is certified pursuant to section 2 of this act.

C.26:2K-43 No civil liability.

5. An EMT-D, EMT-intermediate, licensed physician, hospital or its board of trustees, officers and members of the medical staff, nurses, paramedics or other employees of the hospital, or officers and members of a first aid, ambulance or rescue squad shall not be liable for any civil damages as the result of an act or the omission of an act committed while in training to perform, or in the performance of, cardiac defibrillation in good faith and in accordance with this act.

C.26:2K-44 Penalty for violation.

6. A person who violates the provisions of this act is subject to a penalty of \$200 for the first offense and \$500 for each subsequent offense. If the violation of this act is of a continuing nature, each day during which it continues shall constitute a separate offense for the purposes of this section. The penalty shall be collected and enforced by summary proceedings under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

7. The commissioner shall adopt such rules and regulations in

accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as he deems necessary to effectuate the purposes of this act.

C.26:2K-45 Performance of functions necessary for orderly transfer.

8. Nothing in this act shall be construed to permit an EMT-D to perform the duties or fill the position of another health professional employed by a hospital, except that the EMT-D may perform those functions that are necessary to assure the orderly transfer of a traffic accident victim or other emergency patient receiving pre-hospital care to hospital staff upon arrival at an emergency department and that are necessary to obtain the clinical training in the performance of cardiac defibrillation required by the department.

C.26:2K-46 Not interference with emergency service training program.

9. Nothing in this act shall be construed as interfering with an emergency service training program authorized and operated under the provisions of the "New Jersey Highway Traffic Safety Act of 1987," P.L.1987, c.284 (C.27:5F-18 et seq.).

C.26:2K-47 Performance of duties by other health care professional.

10. Nothing in this act shall be construed to prevent a licensed and qualified member of a health care profession from performing any of the duties of an EMT-D if the duties are consistent with the accepted standards of the member's profession.

11. This act shall take effect on the 90th day following enactment.

Approved January 12, 1990.

CHAPTER 315

AN ACT concerning the taxation of insurers and amending P.L.1945, c.132.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 6 of P.L.1945, c.132 (C.54:18A-6) is amended to read as follows:

C.54:18A-6 Maximum amount of taxable premiums.

6. In the event that the taxable premiums collected by any company, as specified in sections 2 and 3 of this act, and all of its affiliates

as defined in the chapter entitled "Insurance Holding Company Systems," P.L.1970, c.22 (C.17:27A-1 et seq.), during any year ending December 31, exceed twelve and one-half percentum (12½%) of the total premiums collected by the company and all of its affiliates during the same year on all policies and contracts of insurance, whenever and wherever issued, the taxable premiums of such company shall not exceed a sum equal to twelve and one-half percentum (12½%) of such company's total premiums collected during the same year on all policies and contracts of insurance, whenever and wherever issued, calculated as specified in sections 4 and 5 of this act; provided, however, a company to which section 2 of this act (C.54:18A-2) applies shall in no event be deemed to be an affiliate of a company to which section 3 of this act (C.54:18A-3) applies and provided, further, that as to any company licensed in this State prior to June 30, 1984, the taxable premiums of that company shall be calculated without regard to the premiums collected by any affiliate.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 316

AN ACT concerning the bonds of contractors on public works and improvements and amending Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.2A:44-143 is amended to read as follows:

Additional bond for payment of claims for labor, material and supplies; waiver; surety's obligation.

2A:44-143. a. When public buildings or other public works or improvements are about to be constructed, erected, altered or repaired under contract, at the expense of the State or any county, municipality or school district thereof, the board, officer or agent contracting on behalf of the State, county, municipality or school district, shall require the usual bond, as provided for by law, with good and sufficient sureties, with an additional obligation for the payment by the contractor, and by all subcontractors, for all labor performed or materials, provisions, provender or other supplies,

teams, fuels, oils, implements or machinery used or consumed in, upon, for or about the construction, erection, alteration or repair of such buildings, works or improvements.

When such contract is to be performed at the expense of the State and is entered into by the Director of the Division of Building and Construction or State departments designated by the Director of the Division of Building and Construction, and such contract is for a sum not exceeding \$20,000.00, the director or the State departments may at their discretion waive the bond requirement of this section.

b. A surety's obligation shall not extend to any claim for damages based upon alleged negligence that resulted in personal injury, wrongful death, or damage to real or personal property, and no bond shall in any way be construed as a liability insurance policy. Nothing herein shall relieve the surety's obligation to guarantee the contractor's performance of all conditions of the contract, including the maintenance of liability insurance if and as required by the contract. Only the obligee named on the bond, and any subcontractor performing labor or any subcontractor or materialman providing materials for the construction, erection, alteration or repair of the public building, work or improvement for which the bond is required pursuant to this section, shall have any claim against the surety under the bond.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 317

AN ACT concerning energy assistance programs, appropriating moneys from the "Petroleum Overcharge Reimbursement Fund".

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. There is appropriated to the Department of Human Services from the interest earned on the moneys in the Petroleum Overcharge Reimbursement Fund established pursuant to section 1 of P.L.1987, c.231, the sum of \$20,000,000 for a low income energy assistance program.

2. a. The Commissioner of Human Services shall issue guidelines concerning the eligibility for available funds and procedures for the distribution of funds, and may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this act.

b. The sums appropriated pursuant to this act shall be obligated by the department receiving an appropriation within three years of the effective date of this act.

c. Within two years of the effective date of this act, the commissioner shall submit to the Governor and the Legislature a report detailing the proposed and actual expenditure of the sums appropriated.

3. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 318

AN ACT appropriating funds from the Correctional Facilities Construction Fund of 1987 for expansion of certain correctional facilities.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. There is appropriated to the Department of Corrections from the "Correctional Facilities Construction Fund of 1987," created pursuant to the "Correctional Facilities Construction Bond Act of 1987," P.L.1987, c.178, the sum of \$21,985,000 for the following projects:

DEPARTMENT OF CORRECTIONS

Northern State Prison	324 Beds	\$16,300,000
Riverfront State Prison and Northern State Prison Emergency Bed Completion	648 Beds	5,000,000

Mountainview Youth Correctional Satellite Facility	20 Beds	685,000
Total Appropriation		<u>\$21,985,000</u>

2. There is also appropriated from the "Correctional Facilities Construction Fund of 1987" such items as may be necessary to meet any expense incurred by the issuing officials under P.L.1987, c.178 for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of that act.

3. The Commissioner of Corrections shall apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer amounts appropriated herein or pursuant to P.L.1988, c.36 or P.L.1989, c.60 from any project or purpose to any other project or purpose in the Correctional Facilities Construction Fund. The transfers shall be made in a manner consistent with section 29 of P.L.1987, c.178.

4. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 319

AN ACT concerning the penalty for illegally passing a school bus and amending P.L.1942, c.192.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1942, c.192 (C.39:4-128.1) is amended to read as follows:

C.39:4-128.1 School buses stopped for children; duty of motorists; duty of bus driver; violations; revocation of license.

1. On highways having roadways not divided by safety islands or physical traffic separation installations, the driver of a vehicle approaching or overtaking a bus, which is being used solely for the transportation of children to or from school or a summer day camp or any school connected activity and which has stopped for the purpose of receiving or discharging any child, shall stop such vehicle not less than 25 feet from such school bus and keep such vehicle

stationary until such child has entered said bus or has alighted and reached the side of such highway and until a flashing red light is no longer exhibited by the bus; provided, such bus is designated as a school bus by one sign on the front and one sign on the rear, with each letter on such signs at least 4 inches in height.

On highways having dual or multiple roadways separated by safety islands or physical traffic separation installations, the driver of a vehicle overtaking a school bus, which has stopped for the purpose of receiving or discharging any child, shall stop such vehicle not less than 25 feet from such school bus and keep such vehicle stationary until such child has entered said bus or has alighted and reached the side of the highway and until a flashing red light is no longer exhibited by the bus.

On highways having dual or multiple roadways separated by safety islands or physical traffic separation installations, the driver of a vehicle on another roadway approaching a school bus, which has stopped for the purpose of receiving or discharging any child, shall reduce the speed of his vehicle to not more than 10 miles per hour and shall not resume normal speed until the vehicle has passed the bus and has passed any child who may have alighted therefrom or be about to enter said bus.

Whenever a school bus is parked at the curb for the purpose of receiving children directly from a school or a summer day camp or any school connected activity or discharging children to enter a school or a summer day camp or any school connected activity, which is located on the same side of the street as that on which the bus is parked, drivers of vehicles shall be permitted to pass said bus without stopping, but at a speed not in excess of 10 miles per hour.

The driver of a bus which is being used solely for the transportation of children to or from school or a summer day camp or any school connected activity shall continue to exhibit a flashing red light and shall not start his bus until every child who may have alighted therefrom shall have reached a place of safety.

Any person who shall violate any provision of this act shall be subject to (1) a fine of not less than \$100.00, (2) imprisonment for not more than 15 days or community service for 15 days in such form and on such terms as the court shall deem appropriate, (3) or both for the first offense, and a fine of not less than \$250.00, imprisonment for not more than 15 days, or both for each subsequent offense. The penalties shall be enforced and recovered pursuant to the provisions

of chapter 5 of Title 39 of the Revised Statutes. There shall be a rebuttable presumption that the registered owner of the vehicle which was involved in the violation of this section was the person who committed the act.

The Director of the Division of Motor Vehicles may also revoke the license to drive a motor vehicle of any person who shall have been guilty of such willful violation of any of the provisions of this act as shall, in the discretion of the director, justify such revocation, but the director shall, at all times, have power to validate such a license which has been revoked, or to grant a new license to any person whose license to drive a motor vehicle shall have been revoked pursuant to this act.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 320

AN ACT concerning certain pensioners holding elected public office and amending and supplementing P.L.1977, c.171.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1977, c.171 (C.43:3C-3) is amended to read as follows:

C.43:3C-3 Reemployment in elected public office; option for benefits.

1. Notwithstanding any other law to the contrary, if a former member of any pension fund or retirement system, contributory or noncontributory, established under any law of this or any other state, who has been granted a pension or retirement allowance for any cause other than vesting or deferred retirement, becomes employed again in an elected public office which makes him eligible to be a member of the same or any other pension fund or retirement system established under any law of this State, such person shall have the option to choose either to be reenrolled in the same fund or system or enrolled in such other pension fund or retirement system or to continue to receive said pension or retirement allowance and any death benefit as a result of his former membership irrespective of his position as an elected public officer.

2. Any former member who has been granted a pension or retirement allowance for any cause other than vesting or deferred retirement and who is employed in an elected public office on the effective date of this 1989 amendatory and supplementary act may choose instead to be reenrolled in the pension fund or retirement system pursuant to section 1 of P.L.1977, c.171 (C.43:3C-3) and shall be reenrolled effective upon the filing of a written request with the Division of Pensions.

3. This act shall take effect immediately and shall be retroactive to January 1, 1987.

Approved January 12, 1990.

CHAPTER 321

AN ACT concerning health maintenance organization contracts with health care facilities and amending and supplementing P.L.1973, c.337 (C.26:2J-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 11 of P.L.1973, c.337 (C.26:2J-11) is amended to read as follows:

C.26:2J-11 Annual open enrollment period.

11. a. After a health maintenance organization has been in operation 24 months, it shall have an annual open enrollment period of at least one month during which it accepts enrollees up to the limits of its capacity, as determined by the health maintenance organization, in the order in which they apply for enrollment. A health maintenance organization may apply to the commissioner for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse selection by prospective enrollees, or to avoid unreasonably high or unmarketable charges for enrollee coverage for health care services. The commissioner shall approve or deny such application within 30 days of the receipt thereof from the health maintenance organization. The Commissioner of Insurance shall certify to the commissioner the appropriateness of any requested underwriting restrictions.

b. Health maintenance organizations providing or arranging for services exclusively on a group contract basis may limit the open enrollment provided for in subsection a. to all members of the group or groups covered by such contracts.

c. A health maintenance organization shall notify its enrollees in writing at the time of enrollment, and include a notice in the promotional material which it distributes to prospective enrollees, that a person's choice of health benefits plan will determine his coverage until the next annual open enrollment period, regardless of the continued availability of a particular health care provider who contracts with that health maintenance organization, unless the enrollee moves his place of residence outside of the organization's designated service area.

C.26:2J-11.1 Failure to agree on terms; four-month extension; notification of options.

2. If a health maintenance organization authorized to operate in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) and a general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) with which the health maintenance organization has a contract to provide services to its enrollees, are unable to agree on the terms of a new contract upon the expiration of the current contract, the hospital and the health maintenance organization shall continue to abide by the terms of the most current contract for a period of four months from a severance date mutually agreed upon by both parties. In that event, the health maintenance organization shall promptly notify the health care providers with which it has contracted to provide services and provide notification within the four-month extension period to those of its enrollees who reside in the county in which the hospital is located or in an adjacent county in writing as to the extension of the terms of the most current contract, and shall in the notice to its enrollees advise them of the options available to them with respect to their health care coverage.

3. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 322

AN ACT concerning services for child victims, supplementing P.L.1971, c.317 (C.52:4B-1 et seq.) and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:4B-25.1 Child and family counseling unit.

1. a. In addition to the victim counseling service established pursuant to section 2 of P.L.1982, c.192 (C.52:4B-25), the Violent Crimes Compensation Board shall establish a specialized child and family counseling unit. This unit shall be under the direction of a person appointed by a chairman of the Violent Crimes Compensation Board whose training or experience includes the handling of child abuse cases.

b. The board is authorized to appoint such personnel for the child and family counseling unit as may be necessary to carry out its functions.

c. The child and family counseling unit may be principally located in any place as the board deems advisable, but shall be available to lend assistance to child victims in every county in this State.

2. There is appropriated from the General Fund to the Violent Crimes Compensation Board the sum of \$95,000.00 to effectuate the purposes of this act.

3. This act shall take effect on the 60th day after enactment.

Approved January 12, 1990.

CHAPTER 323

AN ACT requiring the furnishing of autopsy reports to certain persons and amending P.L.1967, c.234.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 11 of P.L.1967, c.234 (C.52:17B-88) is amended to read as follows:

C.52:17B-88 Findings; report; autopsy; transportation of body.

11. If the cause of such death shall be established beyond a reasonable doubt, the county medical examiner shall reduce his findings to writing and promptly make a full report thereof to the State Medical Examiner and to the county prosecutor on forms to be prescribed by the State Medical Examiner for such purpose. If, however, in the opinion of the county medical examiner, the State Medical Examiner, an assignment judge of the Superior Court, the county prosecutor or the Attorney General, an autopsy is necessary, or if, in cases where the suspected cause of death is sudden infant death syndrome and an investigation has been conducted under the provisions of section 9 of this act, and the parent, parents or legal guardian of the child request an autopsy, the same shall be performed by (1) the State Medical Examiner, or an assistant designated by him or by (2) the county medical examiner or a deputy or assistant county medical examiner provided either has the recognized training or experience in forensic pathology or by (3) such competent forensic pathologists as may be authorized by the State Medical Examiner. A detailed description of the findings written during the progress of such autopsy, and the conclusions drawn therefrom shall thereupon be filed in the offices of the State Medical Examiner, the county medical examiner and the county prosecutor. The county medical examiner shall make available a copy of these findings and conclusions to the closest surviving relative of the decedent within 90 days of the receipt of a request therefor, unless the death is under active investigation by a law enforcement agency. Where the suspected cause of death of a child under three years of age is sudden infant death syndrome, the findings and conclusions shall be reported to the State Department of Health within 48 hours after the death of the child. It shall be the duty of any county medical examiner to call upon the State Medical Examiner or an assistant State medical examiner, or other person authorized and designated by the State Medical Examiner, to make an examination or perform an autopsy

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whenever he deems it necessary or desirable, and it shall be the duty of the State Medical Examiner or assistant State medical examiner to perform such examination, except in such cases as a competent pathologist is so authorized by the State Medical Examiner to perform such autopsy. The necessary expenses for transportation of a body for autopsy by the State Medical Examiner or an assistant State medical examiner or an authorized pathologist and such reasonable fee payable to the authorized pathologist as has been approved by the State Medical Examiner for each autopsy such authorized pathologist may perform shall be paid by the State.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 324

AN ACT concerning judges of the Superior Court in certain counties and amending N.J.S.2A:2-1.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.2A:2-1 is amended to read as follows:

Superior Court judges.

2A:2-1. a. The Superior Court shall consist of not less than 364 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	10
Bergen	26
Burlington	7
Camden	14
Cape May	4
Cumberland	6
Essex	28
Gloucester	8
Hudson	22
Hunterdon	3

Mercer	8
Middlesex	20
Monmouth	16
Morris	14
Ocean	14
Passaic	14
Salem	2
Somerset	6
Sussex	3
Union	16
Warren	3

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the number of judges of the county court authorized in each of the counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 325

AN ACT concerning immunity for public entities and employees and supplementing chapter 5 of Title 59 of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.59:5-6 No liability after voluntary release from police custody.

1. a. Neither a public entity nor a public employee is liable for any injury suffered by a motor vehicle driver upon his voluntary release from police custody after reasonable precautions have been taken so that the driver is released in a position of relative safety and refuge following his arrest on a charge of operating a motor vehicle while under the influence of intoxicating liquor or drugs, pursuant to R.S.39:4-50.

b. Neither a public entity nor a public employee is liable for any injury suffered by a motor vehicle occupant upon his voluntary release from police detention after reasonable precautions have been taken so that the occupant is released in a position of relative safety

and refuge following the arrest of a motor vehicle driver on a charge of operating a motor vehicle while under the influence of intoxicating liquor or drugs, pursuant to R.S.39:4-50.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 326

AN ACT concerning motor vehicle registrations and drivers' licenses, amending R.S.39:3-4 and supplementing chapter 3 of Title 39 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. R.S.39:3-4 is amended to read as follows:

Registration of automobiles and motorcycles; application; registration certificates; expiration; issuance; violations.

39:3-4. Except as hereinafter provided, every resident of this State and every nonresident whose automobile or motorcycle shall be driven in this State shall, before using such vehicle on the public highways, register the same, and no automobile or motorcycle shall be driven unless so registered.

Such registration shall be made in the following manner: An application in writing, signed by the applicant or by an agent or officer, in case the applicant is a corporation, shall be made to the director or his lawful agent, on forms prepared and supplied by the director, containing the name, street address of the residence or the business of the owner, mailing address, if different from the street address of the owner's residence or business, and age of the owner, together with a description of the character of the automobile or motorcycle, including the name of the maker and the manufacturer's number or the motor number, or both, and any other statement that may be required by the director. A post office box shall appear on the application only as part of a mailing address that is submitted by the owner, agent or officer, as the case may be, in addition to the street address of the applicant's residence or business. An owner whose last address appears on the records of the division as a post office box shall change his address on his application for renewal to the street address of his residence or business and, if different from his street

address, his mailing address. If the vehicle is insured by motor vehicle liability insurance, as required by law, the application shall contain the name of the insurer of said vehicle and the policy number.

Thereupon the director shall have the power to grant a registration certificate to the owner of any motor vehicle, if over 17 years of age, application for the registration having been properly made and the fee therefor paid, and the vehicle being of a type that complies with the requirements of this subtitle. The form and contents of the registration certificate to be issued shall be prescribed by the director. The director shall maintain a record of all registration certificates issued, and of the contents thereof.

Every registration shall expire and the certificate thereof become void on the last day of the 12th calendar month following the calendar month in which the certificate was issued; provided, however, that the director may, at his discretion and for good cause shown, require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by him, which date shall not be sooner than three months nor later than 16 months after the date of issuance of such certificates, and the fees for such registrations shall be fixed by the director in amounts proportionately less or greater than the fees established in this Title.

All motorcycles for which registrations have been issued prior to the effective date of P.L.1989, c.167 and which are scheduled to expire between November 1 and March 31 shall, upon renewal, be issued registrations by the director which shall expire on a date fixed by him, but in no case shall that expiration date be earlier than April 30 nor later than October 31. The fees for the renewal of the motorcycle registrations authorized under this paragraph shall be fixed by the director in an amount proportionately less or greater than the fee established by R.S.39:3-21.

The director shall issue registration certificates for the following registration period on and after the first day of the calendar month immediately preceding the commencement of such registration period, such registration certificates to be effective immediately.

Application forms for all renewals of registrations for passenger automobiles shall be mailed by the director from the central office of the division to the last addresses of owners of motor vehicles and motorcycles, as they appear on the records of the division.

No person owning or having control over any unregistered motor

vehicle shall permit the same to be parked or to stand on a public highway.

Any police officer is authorized to remove any such unregistered vehicle from the public highway to a storage space or garage, the expense involved in such removal and storing of said motor vehicle to be borne by the owner of such vehicle.

Any person violating the provisions of this section shall be subject to a fine not exceeding \$100.00, except that for the misstatement of any fact in the application required to be made to the director, the person making such statement shall be subject to the penalties provided in R.S.39:3-37.

Nothing in this section shall be construed to alter or extend the expiration date of any registration certificate issued prior to March 1, 1956.

C.39:3-9b Street address on driver's license.

2. Each application for a driver's license, or a renewal thereof, required by R.S. 39:3-10 shall contain the street address of the place of residence or business of the licensee at the time of application or renewal. A post office box shall appear on a driver's license application only as part of a mailing address that is submitted by the licensee in addition to the street address of the licensee's residence or business. A licensee whose last address appears on the records of the division as a post office box shall change the address on the application for renewal to the street address of the licensee's residence or business and, if different from the street address, his mailing address.

3. This act shall take effect on the first day of the 13th month following enactment.

Approved January 12, 1990.

CHAPTER 327

AN ACT concerning the collection of certain debts owed to the New Jersey Higher Education Assistance Authority and amending P.L.1982, c.117.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 1 of P.L.1982, c.117 (C.18A:72-23) is amended to read as follows:

C.18A:72-23 Payment on notes; overdue; State employees; deduction from wages; costs.

1. Whenever any officer or employee of the State of New Jersey, Rutgers, the State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Institute of Technology, or any public authority established pursuant to State law, has failed to make scheduled payments to the New Jersey Higher Education Assistance Authority on any note held by that authority pursuant to N.J.S.18A:72-16, upon showing that such payments are more than 60 days overdue, there shall be deducted from the wages of said employee the full amount of both any arrears payment and any scheduled payment due to the Higher Education Assistance Authority until such time as the note is fully satisfied.

In the case of State officers or employees on the centralized regular bi-weekly payroll, the Department of the Treasury shall make the deduction and shall transmit the payments to the Higher Education Assistance Authority but the Department of the Treasury shall retain an amount, as established by regulation of the Higher Education Assistance Authority, of the moneys collected to defray the cost of collection.

In the case of officers and employees not on the centralized regular bi-weekly payroll, the chief financial officer of the institution or authority shall make the deductions and transmit the payments to the Higher Education Assistance Authority but the institution or authority shall retain an amount, as established by regulation of the Higher Education Assistance Authority, of the moneys collected to defray the cost of collection.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 328

AN ACT providing for the voluntary withholding from pensions of New Jersey gross income tax and amending and supplementing chapter 7 of Title 54A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.54A:7-1.1 Voluntary withholding from pensions and annuities.

1. Voluntary withholding from pensions and annuities. a. Every payor of a pension or annuity, under an annuity, endowment or life insurance contract, or payments of any such amounts which are received as pension disability or retirement benefits, to a taxpayer under any public or private plan, shall withhold the amount specified by the recipient of a pension or annuity.

b. The amount to be withheld shall be a minimum of \$10.00 per payment period or an even dollar amount greater than the minimum as specified by the recipient of the pension or annuity.

c. The recipient of a pension or annuity shall make a request in writing to the payor for the amount to be withheld on a form and in the manner specified by the director. The amount being withheld may be changed or terminated upon request by the recipient of the pension or annuity in the same manner.

d. The director shall promulgate the regulations necessary to implement voluntary withholding from pensions and annuities.

2. N.J.S.54A:7-2 is amended to read as follows:

Information statement for employee or recipient of other payments.

54A:7-2. Information statement for employee or recipient of other payments. Every employer or payor of a pension or annuity required to deduct and withhold tax under this act from the wages of an employee or from the payment of a pension or annuity, or an employer who would have been required so to deduct and withhold tax if an employee had claimed no more than one withholding exemption, shall furnish to each such employee, or pension or annuity recipient or the estate thereof, in respect of the wages or pension or annuity payments paid by such employer or payor to such employee or pension or annuity recipient during the calendar year on or before February 15 of the succeeding year, or, if his employment or pension or annuity is terminated before the close of such calendar year, within 30 days from the date on which the last payment of the wages or

pension or annuity is made, a written statement as prescribed by the director showing the amount of wages or pension or annuity payments paid by the employer or payor to the employee or pension or annuity recipient, the amount deducted and withheld as tax, the amount deducted and withheld as worker contributions for unemployment and disability insurance as provided under the New Jersey Unemployment Compensation Law, and such other information as the director shall prescribe.

3. N.J.S.54A:7-3 is amended to read as follows:

Credit for tax withheld.

54A:7-3. Credit for tax withheld. Wages or pensions or annuities upon which tax is required to be withheld shall be taxable under this act as if no withholding were required, but any amount of tax actually deducted and withheld under this act in any calendar year shall be deemed to have been paid to the director on behalf of the person from whom withheld, and such person shall be credited with having paid that amount of tax for the taxable year beginning in such calendar year. For a taxable year of less than 12 months the credit shall be made under regulations of the director.

4. N.J.S.54A:7-4 is amended to read as follows:

Employer's or other payor's return and payment of withheld taxes.

54A:7-4. Employer's or other payor's return and payment of withheld taxes.

(a) General.—Every employer or payor of a pension or annuity required to deduct and withhold tax under this act shall, for each calendar month, on or before the 15th day of the month following the close of such calendar month, file a withholding return as prescribed by the director and pay over to the director or to a depository designated by the director the taxes so required to be deducted and withheld. Where the aggregate amount required to be deducted and withheld by any employer or payor of a pension or annuity is less than \$25.00 in a calendar month and the aggregate for the semiannual period ending on June 30 and December 31 can reasonably be expected to be less than \$150.00, the director may by regulation permit an employer or payor of a pension or annuity to file a return on or before July 31 for the semiannual period ending on June 30 and on or before January 31 for the semiannual period ending on December 31. Where the aggregate amount to be deducted and withheld by any employer or payor of a pension or annuity is \$200.00 or less in each month of a calendar quarter and where the total

amount to be deducted and withheld in said calendar quarter can reasonably be expected to be less than \$600.00, the director may by regulation permit an employer or payor of a pension or annuity to file quarterly returns on or before the 15th day of the month following the close of a calendar quarter. If in any such month during a calendar quarter the amount to be deducted and withheld exceeds \$200.00, the employer or payor of a pension or annuity shall, on or before the 15th day of the month following the close of such month, file a withholding return as prescribed by the director and pay over to the director or to a depository designated by the director all the taxes so required to be deducted and withheld for all of said month or months during said calendar quarter. This section shall not be applicable to businesses operating seasonally. Any return due with respect to the last quarter of a calendar year shall be filed and the amount of the withholding shall be paid on or before January 31 next following. The director may, if he believes such action necessary for the protection of the revenues, require any employer or payor of a pension or annuity to make such return and pay to him the tax deducted and withheld at any time, or from time to time. Where the amount of wages paid by an employer is not sufficient under this act to require the withholding of tax from the wages of any of his employees, the director may, by regulation, permit such employer to file an annual return on or before February 28 of the following calendar year.

The director may, by regulation, require the filing and payment of withholding returns and taxes on a semimonthly or more frequent basis where he deems such action in the best interest of the State.

(b) Deposit in trust for director.—Whenever any employer or payor of a pension or annuity fails to collect, truthfully account for, pay over the tax, or make returns of the tax as required in this section, the director may serve a notice requiring such employer or payor to collect the taxes which become collectible after service of such notice, to deposit such taxes in a bank approved by the director in a separate account, in trust for and payable to the State of New Jersey and keep the amount of such tax in such account until payment over to the director. Such notice shall remain in effect until a notice of cancellation is served by the director.

5. N.J.S.54A:7-5 is amended to read as follows:

Liability for withheld taxes.

54A:7-5. Liability for withheld taxes. Every employer or payor of pension or annuity required to deduct and withhold tax under this act is hereby made liable for such tax. For purposes of assessment

and collection, any amount required to be withheld and paid over to the director, and any additions to tax, penalties and interest with respect thereto, shall be considered the tax of the employer or payor. Any amount of tax actually deducted and withheld under this act shall be held to be a special fund in trust for the director. No employee or pension or annuity recipient shall have any right of action against an employer or payor of a pension or annuity in respect to any moneys deducted and withheld from the wages or pension or annuity and paid over to the director in compliance or in intended compliance with this act.

6. N.J.S.54A:7-6 is amended to read as follows:

Failure to withhold.

54A:7-6. Failure to withhold. If an employer or payor of a pension or annuity fails to deduct and withhold tax as required, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer or payor, but the employer or payor shall not be relieved from liability for any penalties, interest, or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

7. N.J.S.54A:7-7 is amended to read as follows:

Filing annual reconciliation of tax withheld.

54A:7-7. Filing annual reconciliation of tax withheld. Any reconciliation of tax withheld shall be filed by the employer or payor of a pension or annuity with the Division of Taxation on or before February 15 following the close of the calendar year in accordance with rules and regulations prescribed by the director.

8. This act shall take effect immediately, except that section 1 shall be applicable on and after the first day of the fourth month after enactment.

Approved January 12, 1990.

CHAPTER 329

AN ACT concerning appointment of a conservator and amending
N.J.S.3B:13A-5.

BE IT ENACTED *by the Senate and General Assembly of the State
of New Jersey*:

1. N.J.S.3B:13A-5 is amended to read as follows:

By whom action for appointment of conservator in behalf of conservatee may be brought.

3B:13A-5. By whom action for appointment of conservator in behalf of conservatee may be brought. An action for the appointment of a conservator may be brought by the conservatee as provided in section 3B:13A-2 or in the conservatee's behalf by:

- a. His spouse;
- b. His adult children or, where there are none, the person or persons closest in degree of kinship to the conservatee;
- c. Any person having concern for the financial or personal well-being of the conservatee;
- d. A public agency or a social services official of the State or of the county in which the conservatee resides regardless of whether or not the conservatee is a recipient of public assistance; or
- e. The chief administrator of a State licensed hospital, school or institution in which the conservatee is a patient or from which he receives services.
- f. The chief administrator of a non-profit charitable institution in which the conservatee is a patient or from which he receives services.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 330

AN ACT establishing an Interdepartmental Task Force on the Elderly and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:27D-29.30 Findings, declarations.

1. The Legislature finds and declares that:

a. The senior citizen population in New Jersey has increased dramatically in recent years and demographic projections indicate that this population will continue to increase well into the next century;

b. Concurrent with the growth of the elderly population has been an increase in the number of senior citizen services and benefits, which are administered through a variety of departments in State government;

c. This administration of senior citizen services and benefits by so many departments is cause for confusion and leads to an ineffective and inefficient delivery of these services and benefits;

d. It is, therefore, in the public interest that there shall be established a coordinating entity to promote and facilitate close cooperation and working relationships, consistency between programs and efficient use of resources in the delivery of services and benefits for senior citizens.

C.52:27D-29.31 Interdepartmental Task Force on the Elderly established.

2. There is established in the Division on Aging in the Department of Community Affairs an Interdepartmental Task Force on the Elderly for the purpose of fostering communication among the various departments whose programs and policies affect senior citizens. The task force shall consist of 14 representatives of the following governmental entities: the Division on Aging and the Division on Women in the Department of Community Affairs; the Departments of Education, Health, Higher Education, Human Services, Insurance, Labor, Public Advocate, Transportation and Treasury; the Office of the Public Guardian; the Office of the Ombudsman for the Institutionalized Elderly; and the New Jersey Housing and Mortgage Finance Agency.

A chairman of the task force shall be elected from among the members. The task force shall meet at least monthly to conduct its

work and at such other times as designated by the chairman.

3. The Director of the Division on Aging shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

4. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 331

AN ACT regulating certain employment agencies, services and firms, supplementing Title 52 of the Revised Statutes and repealing P.L.1951, c.337 and section 6 of P.L.1981, c.500.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.34:8-43 Definitions.

1. As used in this act:

"Accepting employment" means that a job seeker has entered into an agreement with an employer which includes:

- (1) The terms and conditions of employment;
- (2) The salary or wages and any benefits to be paid to the job seeker as compensation for employment; and
- (3) The date, time and place employment will commence.

"A career consulting or outplacement organization" means any person, required to be registered under section 24 of this act, providing or rendering services, with or without related products, in connection with advice, instruction, analysis, recommendation or assistance concerning past, present, or future employment or compensation for an individual's time, labor or effort.

"Agent" means any individual who performs any function or activity for or on behalf of any person, the purpose of which is to provide services or products to individuals seeking employment, career guidance or counseling, or employment related services or products.

"Applicant" means any person applying for licensing or registration under this act.

“Attorney General” means the Attorney General of this State or a designee.

“Baby sitter” means and includes any individual under 16 years of age, other than a registered nurse or a licensed nurse, entrusted temporarily with the care of children during the absence of their parents, guardians, or individuals standing in loco parentis to them. This definition shall not include persons regularly employed by agencies, or institutions operated by or under the control or supervision of this State, or any of its political subdivisions, nor any child care facilities operated for the care of children when the facilities are similarly controlled or supervised.

“Booking agency” means any person who procures, offers, promises, or attempts to procure employment for performing artists, or athletes, not under the jurisdiction of the Athletic Control Board, and who collects a fee for providing those services.

“Bureau” means the Bureau of Employment and Personnel Services in the Division of Consumer Affairs within the Department of Law and Public Safety created pursuant to section 2 of this act.

“Career counseling service” means any business that, through its agents or otherwise, procures or represents itself as procuring employment or employment assistance or advertises in any manner the following services for a fee: career counseling; vocational guidance; aptitude, achievement or vocational testing; executive consulting; personnel consulting; career management, evaluation, or planning; the development of resumes and other promotional materials relating to the preparation for employment; or referral services relating to employment or employment qualifications. A career counseling service shall be licensed as an employment agency pursuant to the provisions of this act. A career counseling service shall not include career consulting or outplacement organizations required to be registered under section 24 of this act.

“Chief” means the Chief of the Bureau of Employment and Personnel Services.

“Consulting firm” means any person required to be registered under section 23 of this act that:

- (1) Identifies, appraises, refers or recommends individuals to be considered for employment by the employer; and
- (2) Is compensated for services solely by payments from the employer and is not, in any instance, compensated, directly or indirect-

ly, by an individual who is identified, appraised, referred or recommended.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, or his designee.

“Employer” means a person seeking to obtain individuals to perform services, tasks, or labor for which a salary, wage, or other compensation or benefits are to be paid.

“Employment agency” means any person who, for a fee, charge or commission:

(1) Procures or obtains, or offers, promises or attempts to procure, obtain, or assist in procuring or obtaining employment for a job seeker or employees for an employer; or

(2) Supplies job seekers to employers seeking employees on a part-time or temporary assignment basis who has not filed notification with the Attorney General pursuant to the provisions of section 1 of P.L.1981, c.1 (C.56:8-1.1); or

(3) Procures, obtains, offers, promises or attempts to procure or obtain employment or engagements for actors, actresses, performing artists, vocalists, musicians or models; or

(4) Acts as a placement firm, career counseling service, or resume service; or

(5) Acts as a nurses’ registry.

The director shall have the authority to determine, from time to time, that a particular employment agency or career-related service or product, not otherwise expressly subject to the provisions of this act, is subject to whichever requirements of this act he deems appropriate.

“Fee, charge or commission” means any payment of money, or promise to pay money to a person in consideration for performance of any service for which licensure or registration is required by this act, or the excess of money received by a person furnishing employment or job seekers over what he has paid for transportation, transfer of baggage or lodging for a job seeker. “Fee, charge or commission” shall also include the difference between the amount of money received by any person who either furnishes job seekers or performers for any entertainment, exhibition or performance, or who furnishes baby sitters for any occasion, and the amount paid by the person to the job seekers, performers or baby sitters.

“Job listing service” means any person required to be registered under section 25 of this act who, by advertisement or other means, offers to provide job seekers with a list of employers, a list of job openings or a similar publication, or prepares resumes or lists of applicants for distribution to potential employers, where a fee or other valuable consideration is exacted or attempted to be collected, either directly or indirectly.

“Job seeker” means any individual seeking employment, career guidance or counseling or employment related services or products.

“Job seeker contingent liability” means a provision in an agreement between an employment agency and a job seeker whereby the job seeker may become liable, in whole or in part, to pay a fee, charge or commission of any amount, directly or indirectly, on account of any service rendered by the employment agency.

“Just cause for voluntary termination of employment by a job seeker” means and includes, but is not limited to, cases in which material misrepresentations of the terms or conditions of employment have been relied upon by a job seeker who would not have accepted the employment if the grounds for termination were known before acceptance of the employment.

“License” means a license issued by the director to any person to:

- (1) Carry on the business of an employment agency; and
- (2) Perform, as an agent of the agency, any of the functions related to the operation of the agency.

“Performing artist” means a model, musical, theatrical or other entertainment performer employed or engaged individually or in a group.

“Person” means any natural person or legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesperson, partner, officer, director, member, stockholder, associate, trustee or cestuis que trustent thereof.

“Prepaid computer job matching service” means any person required to be registered under section 25 of this act who is engaged in the business of matching job seekers with employment opportunities, pursuant to an arrangement under which the job seeker is required to pay a fee in advance of, or contemporaneously with, the supplying of the matching, but which does not otherwise involve

services for the procurement of employment by the person conducting the service.

“Primary location” means an address used for 90 or more calendar days by a person for the conduct of an activity regulated under this act.

“Principal owner” means any person who, directly or indirectly, holds a beneficial interest or ownership in an applicant or who has the ability to control an applicant.

“Temporary employment” means employment in which the duration is fixed as some definite agreed period of time or by the occurrence of some specified event, either of which shall be clearly stated to all parties at the time of referral to the employment.

“Temporary help service firm” means any person who operates a business which consists of employing individuals directly or indirectly for the purpose of assigning the employed individuals to assist the firm’s customers in the handling of the customers’ temporary, excess or special work loads, and who, in addition to the payment of wages or salaries to the employed individuals, pays federal social security taxes and State and federal unemployment insurance; carries worker’s compensation insurance as required by State law; and sustains responsibility for the actions of the employed individuals while they render services to the firm’s customers. A temporary help service firm is required to comply with the provisions of P.L.1960, c.39 (C.56:8-1 et seq.).

C.52:17B-139.4 Bureau of Employment and Personnel Services.

2. There is established a Bureau of Employment and Personnel Services in the Division of Consumer Affairs in the Department of Law and Public Safety. The Director of the Division of Consumer Affairs shall have authority to administer the provisions of this act with the oversight of the Attorney General. The director shall appoint the chief of the bureau, who shall serve under the direction and supervision of the director and who shall receive a salary as provided by law.

C.34:8-44 Disclosure statement; hearing after denial of registration, license; notification of change in disclosure statement.

3. In addition to any other procedure, condition or information required by this act:

a. Every applicant shall file a disclosure statement with the chief stating whether or not the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of

the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes as amended and supplemented, or the equivalent under the laws of any other jurisdiction:

- (1) Any crime of the first degree;
- (2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or
- (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2, 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:20-1, 2C:20-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, or 2C:37-1 through 2C:37-4.

b. Each disclosure statement may be reviewed and used by the director as grounds for denying licensure or registration, except that in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1 et seq.) apply, the director shall comply with the requirements of that act.

c. An applicant who is denied licensure or registration pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of the denial, be afforded an opportunity for a hearing in the manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation, or hearing conducted by the director.

e. If any of the information required to be included in the disclosure statement changes, or if any additional information should be added after the filing of the statement, the applicant shall provide that information to the chief, in writing, within 30 calendar days of the change or addition.

C.34:8-45 Applicability of act; licensure or registration required for court action.

4. a. The provisions of this act shall apply to any person engaging in any of the activities regulated by this act including persons whose residence or principal place of business is located outside of this State.

b. A person shall not bring or maintain an action in any court of this State for the collection of a fee, charge or commission for the performance of any of the activities regulated by this act without alleging and proving licensure or registration, as appropriate, at the time the alleged cause of action arose.

C.34:8-46 Cases where act not applicable.

5. The provisions of this act shall not apply to:

a. A teachers' registry conducted by an association of certified teachers, whose membership is not less than 10 certified teachers, incorporated as a nonprofit organization under the laws of New Jersey, and operated under the supervision of a teacher recognized and approved as a certified teacher by the Department of Education of this State, or by the duly established authority of the state in which the employment is procured, which registry procures positions only for certified teachers who are recognized and approved as certified teachers by the Department of Education of this State;

b. Any State, federal, municipal or charitable agency which does not charge fees;

c. Any department or bureau which is maintained by persons for the purpose of securing help for themselves and does not charge fees to job seekers. The exemption from the provisions of this act provided by this subsection shall not be construed to exempt associations or organizations of employers from the requirement to procure the licenses or registration otherwise required under this act;

d. The procuring of employment by any labor union for any of its members in any job coming under the jurisdiction of the union; provided, that no fee is charged any member for being furnished employment or information where employment may be procured;

e. Any nurses' registry operated by any association of registered nurses, whose membership is not less than 10 registered nurses, duly incorporated as a nonprofit organization under the laws of New Jersey, and operated under the supervision of a registered nurse authorized to practice in the State of New Jersey; except that no nurses' registry shall furnish help or employment to anyone other than a registered nurse, a practical nurse licensed by the State, or a person, other than a baby sitter, who is approved by the registered nurse in charge of the nurses' registry and is sent by the agency to an employer to assist nonprofessionally in the care of the sick or ailing;

f. Any association of farmers which:

(1) Is duly incorporated on a nonprofit basis, under the laws of New Jersey;

(2) Is certified to the director by the Secretary of Agriculture of New Jersey as being an association of bona fide farmers of New Jersey;

(3) Does not furnish job seekers to employers other than members of their association; and

(4) Does not charge fees to any job seeker for being furnished employment or information where employment may be procured.

g. Any person who furnishes farmers with field or harvest workers to be employed on a seasonal basis, and charges no fee either directly or indirectly to any worker, if the wages of the workers are paid directly to the workers by the farmers who employ them.

The exemptions established in this subsection and subsection f. of this section shall not apply to any person who induces or attempts to induce a person working under contract with an employer to leave the employment in which he is working under that contract before the contract is completed or the worker is no longer responsible for its completion;

h. Any temporary help service firm which does not:

(1) Charge a fee or liquidated charge to any individual employed by the firm or in connection with employment by the firm;

(2) Prevent or inhibit, by contract, any of the individuals it employs from becoming employed by any other person;

(3) Knowingly send individuals it employs to, or knowingly continue to render services to, any plant or office where a strike or lockout is in progress for the purpose of replacing individuals who are striking or who are locked out. Any person conducting a temporary help service firm which knowingly sends its employed individuals to, or knowingly continues to render services to, a plant or office where a strike or lockout is in progress for the purpose of replacing those individuals who are striking or who are locked out or, directly or indirectly counsels, aids or abets that action shall be liable to a penalty of \$1,000 upon each occurrence. The penalty shall be sued for, and received by and in the name of the Attorney General and shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

This exclusion shall apply to temporary help service firms operated by any person who also operates an employment agency as long as the businesses are independently operated as prescribed by rules and regulations promulgated by the Attorney General;

i. Any news periodical which contains listings of or classified advertisements for jobs, positions, employers, or job seekers where the periodical also contains news stories of general interest, articles or essays of opinion, features and other advertising and which is offered to the general public for sale at a nominal fee;

j. Any nonprofit educational, religious or charitable institution which provides career counseling, job placement or other employment-related services, skills evaluation, skills analysis, or testing for vocational ability in order to develop a vocational profile to counsel individuals and recommend placement opportunities as part of the fulfillment of its educational, religious or charitable purpose;

k. Any copying, printing, duplicating or resume preparation service which in no instance charges a fee, directly or indirectly, for providing any employment-related service other than copying, printing, duplicating or assisting in arranging the layout of a resume.

C.34:8-47 Application for employment agency license.

6. a. An application for an employment agency license required by this act shall be made in writing to the chief in the form prescribed by the director. The application shall state the complete address, including street and number, of the building and place where the agency is to be conducted and shall enumerate the types of services which the applicant intends to provide. The applicant shall furnish any additional information as may be required by the director for the purpose of investigating the character and responsibility of the applicant and its principal owners or its officers and directors.

b. The chief shall act upon any application for a license within 30 days after receiving it, except that the director may extend the maximum time for acting upon an application to 60 days for the purpose of allowing an applicant to submit additional information or if a hearing on an application is required.

c. The director shall provide for the issuance of, and shall prescribe the form for, the licenses to be issued pursuant to this act.

d. An employment agency license shall not be transferred by the licensee to another person or amended without the written consent of the director and the payment of the fee prescribed by this act.

e. All licenses shall expire on January 1 of the year following their issuance.

C.34:8-48 Application for agent's license; cancellation of license; issuance of new license; conditional license.

7. a. An application for an agent's license shall state the name and address of the applicant and any other name used by the applicant in the last six years, the name of the holder of the employment agency license by whom the applicant expects to be employed, and any other information concerning the applicant required by the chief to assist in the determination of the applicant's qualifications to provide the services for which the applicant would be licensed.

b. An agent's license shall not be issued until the holder of the employment agency license named in the application confirms to the chief in writing that the applicant is or will be employed by the employment agency. A license issued to an agent of an employment agency shall not authorize employment by any other employment agency.

c. An applicant for an agent's license under this act shall, by means of whatever written examination is required by the director, reasonably satisfy the chief that the applicant:

(1) Has knowledge of the provisions of this act and applicable rules and regulations which is sufficient to ensure that the applicant is able to comply with the applicable laws and regulations; and

(2) Has knowledge of and experience in the fields of employment specified in the application which is sufficient to ensure that the applicant is able to render adequate and efficient service to job seekers.

d. An applicant for an agent's license shall furnish information which will reasonably satisfy the chief that the applicant has sufficient knowledge of employment opportunities, career guidance or counseling, or employment-related services or products which the applicant intends to provide to job seekers.

e. Upon the termination of the employment of the holder of an agent's license, the holder of the employment agency license by whom the holder of the agent's license has been employed shall promptly notify the chief of the termination of employment. The agent's license shall thereupon be canceled and the agent entitled to the issuance of a new license for the unexpired term of the old license without payment of an additional fee upon the written request of the agent,

and the holder of the employment agency license who is to be named in the new license as the new employer, except that the director may refuse to issue the new license for any good cause shown within the provisions of this act.

f. For the purpose of enabling individuals to secure experience and knowledge necessary to qualify them as an agent, the director may waive any of the requirements of this section which the director deems proper and issue a conditional license authorizing the holder to perform functions requiring a license, when acting under the direct supervision of a duly qualified licensed agent. The conditional license shall remain in effect for not more than one year.

g. The director shall provide for the issuance of, and shall prescribe the form for, the licenses authorized to be issued pursuant to this act.

h. The director may require licenses to be posted and identification cards to be carried.

i. All licenses shall expire on January 1 of the year following their issuance.

C.34:8-49 Posting of bond as surety; suit on bond; revocation of license.

8. a. Before an employment agency license is issued, the applicant shall post with the director a bond in the amount of \$10,000, with a duly authorized surety company as surety, to be approved by the director.

b. The bond shall be retained by the chief until 90 days after either the expiration or revocation of the employment agency license, as appropriate.

c. The bond shall be payable to the State of New Jersey and upon the condition that the person applying for the license will comply with this act and will pay all damages occasioned to any person by reason of any misrepresentative, deceptive, or misleading act or practice, or any unlawful act or omission of any licensed person, agents, or employees, while acting within the scope of employment, made, committed or omitted in the business conducted under the license, or caused by any violation of this act in carrying on the business for which the license is granted.

d. In case of a breach of the condition of any bond, application may be made to the director by the person injured by the breach for leave to sue upon the bond, which shall be granted by the director if it is proven that the condition of the bond has been breached and

that the person has been injured. The person obtaining leave to sue shall be furnished with a certified copy of the bond and shall be authorized to institute suit on the bond in the person's name for the recovery of damages sustained by the breach.

e. If at any time, in the opinion of the director, the surety on any bond shall become irresponsible, the person holding the license shall, upon notice from the director, give a new bond, subject to the provisions of this section. The failure to give a new bond within 10 days after notice, at the direction of the director, shall operate as revocation of the license, and the license shall be returned to the director.

C.34:8-50 Annual fees.

9. Any license issued in accordance with this act shall be issued upon an annual basis. The fees therefor shall be nonrefundable and shall be charged as follows:

a. Employment agency license	\$250
b. Agent's license	25
c. Transfer of agent's license	10

C.34:8-51 Requirements.

10. a. Every employment agency shall:

(1) Keep and make available to the chief, or a designee, during regular business hours, records containing information regarding services provided, products sold to job seekers or employers, and fees charged or collected, and other information required by rules and regulations to enable the chief to determine the status of compliance with the provisions of this act;

(2) Require all job seekers applying for positions of trust or work with private families to furnish the agency with names and addresses of individuals available as character references, and shall communicate, orally or in writing, with at least one of the individuals given by the job seeker as a character reference. If the job seeker has not furnished the name of any individuals available as character references, or if no favorable statement has been received from a character reference, the agency shall so advise the prospective employer to whom the job seeker is referred. This information shall be written upon the referral slip given by the agency to the job seeker to present to the prospective employer. The written result of the verification to determine the character and responsibility of any job seeker shall be kept on file in the agency subject to examination by the chief. If the employer voluntarily waives, in writing, a verification

of references, the licensed agency shall not be required to make the verification;

(3) Give to each job seeker a copy of every writing the job seeker has signed, the form of which complies with P.L.1980, c.125 (C.56:12-1 et seq.).

(4) Furnish to each job seeker, who is sent to a prospective employer for an interview concerning the job seeker's qualifications or future employment in a job for which no order has been given to the agency, a card or paper containing the names of the job seeker and prospective employer, the address of the prospective employer and any other particulars the agency may determine are necessary. In each case, there shall be printed in bold-faced type on the card or paper the following:

"This card of introduction is given to (name of job seeker) with the understanding that there is no obligation to this employment agency for any fee until, as a result of the services rendered by this agency, ... (name of job seeker) is employed in a job with respect to which the agency received a bona fide order from an employer. (name of job seeker) has agreed to pay the fee under the foregoing conditions if the fee is not paid by an employer."

(5) Post in the agency in the places that the chief, or a designee, directs, an abstract of this act and the rules and regulations promulgated by the director. The chief shall provide the abstracts and charge for the printing of these abstracts.

b. In addition to the requirements set forth in subsection a., each employment agency which charges or may charge the job seeker a fee shall:

(1) File with the chief, for the chief's approval, a schedule of fees proposed to be charged for any service rendered or product sold to job seekers and adhere to the schedule in charging for these services or products. The chief shall not approve the fee schedule unless the chief is satisfied that the fee schedule is on a form which makes the schedule reasonably understandable by job seekers and that the fee schedule is in compliance with all other provisions of this section. The schedule of fees may thereafter be changed or supplemented, by filing an amended or supplemental schedule with the bureau. The changes shall not become effective until approval has been granted by the chief and the amended or supplemental fee schedule has been posted for not less than seven days in a conspicuous manner in the office of the agency. It shall be unlawful for any employment agency

to charge, demand, collect or receive a greater fee for any service rendered or product sold to a job seeker than is specified in the most recent schedule filed with the bureau;

(2) Post the schedule of fees in a conspicuous manner in the office of the agency using forms provided by the chief;

(3) Compute fees paid by a job seeker seeking employment on the basis of permanent employment, unless the employment is temporary employment. Where temporary employment merges into permanent employment, or where a job seeker accepts permanent employment within 30 days after the termination of temporary employment, the permanent employment may be considered the result of the references to the temporary position and the fee may be based on the permanent employment with due credit given for the payment made for the temporary employment;

(4) Not charge to a job seeker who obtains employment and who is discharged without cause or who voluntarily terminates employment for just cause more than 1% of the scheduled fee for each day worked. For purposes of this paragraph, the employment agency shall repay to any job seeker so discharged or terminated any excess of the maximum fee in accordance with the fee schedule, allowing three days' time to determine that the termination was not due to any fault on the part of the job seeker. The employment agency may, however, by separate written agreement between the employment agency and the job seeker, retain the fee or any part of the fee which has been paid for the job from which the job seeker has been discharged without cause or terminated, if the agency furnishes the job seeker with another job and allows due credit for the retained payment;

(5) Not charge a job seeker who either fails to report for duty after accepting employment or voluntarily terminates employment without just cause within 30 days more than 30% of the scheduled fee;

(6) Obtain a bona fide order for employment prior to collecting any fee from a job seeker or sending out a job seeker to any place of employment. Except as may be otherwise provided in rules and regulations, no charge or advance fee of any kind shall be charged, demanded, collected, or received by the agency from a job seeker seeking employment until employment has been obtained by or through the efforts of the agency;

(7) Give to every job seeker from whom a fee is received, at the time payment is received, a receipt which shall state the name of

the job seeker, the name and address of the employment agency and its agent, the date and amount of the fee and the purpose for which it was paid; and

(8) Furnish each job seeker, who is sent to a prospective employer, with a card or similar paper containing the nature of the prospective employment, the names of the job seeker and prospective employer, and the address of the employer.

C.34:8-52 Violations.

11. It shall be a violation of the provisions of this act for any person to:

a. Open, conduct, or maintain, either directly or indirectly, an employment agency or perform any of the functions of an employment agency without first obtaining a valid employment agency license from the director and complying with all requirements of this act regarding agents' licenses for the agents of the agency. A license shall not authorize the furnishing of help or employment or the furnishing of information where help or employment may be procured in the capacity of baby sitters. A license shall not authorize activities of any person other than the individual person or persons holding the license, except that a corporation may be the holder of an employment agency license. A license shall not authorize activities at any place other than the place designated in the license except upon issuance of a special permit by the director. A licensee may engage in activities requiring registration under sections 23, 24 and 25 of this act if it complies with the requirements of those sections.

b. Conduct business, or any phase thereof, in any room or place where:

(1) An individual sleeps or conducts his or her household affairs, unless the business premises have separate ingress and egress from the residential premises;

(2) Premises are rented or leased on an hourly, daily, weekly, or other transient basis except as otherwise provided by regulation;

c. Charge or accept payment of any fees which are greater than those shown by any schedule of fees which is required to be filed with the chief and posted in the agency;

d. Accept and receive any gift as, or in lieu of, a fee;

e. Divide or offer to divide fees, directly or indirectly, with prospective or actual employers or any agent, employee, or representative;

f. Accept payment of a fee or attempt to collect any fee for a service rendered or product sold where employment has not been accepted, except that the requirements of this subsection shall not apply to any career counseling service if that service receives no prepayment for services or products and provides services or products strictly on an hourly basis, with no financial obligation required of the job seeker beyond the hourly fee for the services or products rendered;

g. Falsely state or imply to a job seeker that the person is seeking to obtain individuals to perform services, tasks or labor for which salary, wages, or other compensation is to be paid;

h. Send or cause to be sent any individual to any place used for unlawful purposes;

i. Place or assist in placing an individual under 18 years of age into employment which is in violation of the laws of this State;

j. Induce or compel any individual to enter the agency, for any purpose, by the use of force or by taking forcible possession of the individual's property;

k. Publish or cause to be published any deceptive or misleading notice or advertisement. All advertisements of any agency by any means, including, but not limited to, cards, circulars or signs, or in newspapers and other publications, and all letterheads, receipts and blanks, shall contain the name and address of the agency;

l. Make a deceptive or misleading representation to a job seeker or employer, or enter into any contract with any job seeker or employer or induce or attempt to induce any job seeker or employer to make any agreement, the provisions of which contract or agreement, if fulfilled, violate this act;

m. Require that a job seeker enter into a contract with the agency or any specific lender for the purpose of fulfilling a financial obligation to the employment agency;

n. Demand, charge, collect, or receive a fee unless in accordance with the terms of a written contract or agreement with a job seeker;

o. Engage in any act or practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.) and regulations promulgated thereunder.

C.34:8-53 Refusal or revocation; suspension; renewal.

12. The director may refuse to issue, and may revoke, any license for failure to comply with, or violation of, the provisions of this act

or for any other good cause shown, within the meaning and purpose of this act. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or licensee. The director may, if he finds it to be in the public interest, suspend a license for any period of time that he determines to be proper or assess a penalty in lieu of suspension, or both, and may issue a new license, notwithstanding the revocation of a prior license, provided that he finds the applicant to have become entitled to the new license.

C.34:8-54 Powers of director.

13. To accomplish the objectives and carry out the duties prescribed by this act, the director may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, promulgate rules and regulations, and prescribe forms as may be necessary.

C.34:8-55 Investigation.

14. Whenever it appears to the director that a person has engaged in, is engaging in, or is about to engage in, any practice declared to be unlawful by this act, or whenever the director believes it to be in the public interest that an investigation should be made to ascertain whether a person has engaged in, is engaging in, or is about to engage in, any unlawful practice, the director may:

- a. Require the person to file, on forms prescribed by him, a written statement or report, under oath or otherwise, concerning the facts and circumstances regarding the practice which is under investigation;
- b. Examine under oath any person in connection with the practice under investigation;
- c. Examine any record, book, document, account, contract, or paper as he deems necessary; and
- d. Pursuant to an order of the Superior Court, impound any record, book, document, account, contract, or paper that is produced in accordance with this act, and retain it until the completion of all proceedings in connection with the materials produced.

C.34:8-56 Service of notice or subpoena.

15. Service by the director of any notice requiring a person to file a statement or report, or of a subpoena upon the person, shall be made personally within this State, but if this cannot be done, substituted service may be made in the following manner:

- a. Personal service outside this State;
- b. The mailing by registered or certified mail to the last known place of business or residence inside or outside the State of the person;
- c. As to any person other than an individual, in accordance with the Rules Governing the Courts of the State of New Jersey pertaining to service of process, provided, however, that service shall be made by the director; or
- d. Any service as the Superior Court may direct in lieu of personal service within the State.

C.34:8-57 Order from Superior Court.

16. If a person fails or refuses to file any statement or report requested by the director, or obey any subpoena issued by the director, the director may seek and obtain an order from the Superior Court:

- a. Adjudging the person in contempt of court;
- b. Granting injunctive relief, without notice, restraining any and all acts and practices for which a license is required in the provisions of this act;
- c. Directing the payment of reasonable attorneys' fees and costs of the investigation and suit; and
- d. Granting any other relief as may be required, until the person files the statement or report, or obeys the subpoena.

C.34:8-58 Injunction; other court actions.

17. a. Whenever it appears to the director that a person has engaged in, is engaging in, or is about to engage in, any practice which is a violation of the provisions of this act, the director may seek and obtain in a summary action in the Superior Court an injunction prohibiting the person from continuing the practices or engaging therein or doing any acts in furtherance thereof.

b. In addition to any other remedy, the court may: enjoin an individual from managing or owning any business organization within this State, and from serving as an officer, director, trustee, member of any executive board or similar governing body, principal, manager, stockholder owning 10% or more of the aggregate outstanding capital stock of all classes of any corporation doing business in this State; vacate or annul the charter of a corporation created by or under the laws of this State; revoke the certificate of authority

to do business in this State of a foreign corporation; and revoke any licenses issued pursuant to law to the person whenever the charter, authority, or license have been or may be used to engage in or to further unlawful practices. The court may grant any relief as may be necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any moneys or property, real or personal, which may have been acquired by means of any practices declared to be unlawful.

C.34:8-59 Action authorized after finding of violation.

18. Whenever it appears to the director that a person has engaged in, is engaging in, or is about to engage in, any practice which is a violation of the provisions of this act, the director may hold hearings on the violation and upon finding the violation to have been committed, may enter an order:

a. Directing the person to cease and desist or refrain from committing the practice in the future;

b. Directing the person to restore to any person in interest any moneys or property, real or personal, which may have been acquired by means of any unlawful practice;

c. Assessing reasonable attorneys' fees and costs of investigation and suit;

d. Assessing a penalty in the amount authorized by the provisions of section 19 of this act, which the director deems proper under the circumstances; and

e. Directing the person to reimburse the job seeker for transportation expenses if no employment of the kind applied for exists at the place to which the job seeker is sent and the person did not have a bona fide order, either oral or written, from the prospective employer.

C.34:8-60 Penalties for violation of cease and desist order.

19. Whenever it appears to the director that a person against whom a cease and desist order has been entered has violated the order, the director may bring a summary proceeding in the Superior Court based upon the violation. A person found to have violated a cease and desist order shall be liable for civil penalties in the amount of not less than \$1,000 or more than \$25,000 for each violation of the order, together with reasonable attorneys' fees and cost of investigation and suit. If any person fails to pay a civil penalty imposed by

the court for violation of a cease and desist order, the court imposing the penalty is authorized, upon application of the director, to grant any relief which may be obtained under any statute or court rule governing the collection and enforcement of penalties.

C.34:8-61 Additional penalties.

20. In addition to any other penalty provided by law, a person who violates any of the provisions of this act shall be liable for a penalty of not more than \$2,000 for the first offense and not more than \$5,000 for the second and each subsequent offense.

C.34:8-62 Director to recover attorneys' fees and costs.

21. In any action or proceeding brought under this act the director may recover reasonable attorneys' fees and costs of investigation and suit.

C.34:8-63 Certificate of indebtedness to clerk.

22. Upon the failure of a person to comply within 10 days after service of any order of the director directing payment of penalties, costs, attorneys' fees, reimbursement, or restoration of moneys or property, the director may issue a certificate to the clerk of the Superior Court that the person is indebted to the State for these payments. A copy of the certificate shall be served upon the person against whom the order was entered. The clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted, a designation of the statutes under which the payments are imposed, the amount of each payment imposed, and a listing of property ordered restored, and the date of the certification. The entry shall have the same force and effect as the entry of the docketed judgment in the Superior Court. The entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the director.

C.34:8-64 Registration of consulting firm; revocation; suspension.

23. a. Every consulting firm operating within this State shall, within 60 days following the effective date of this act and annually thereafter, register in writing with the chief on a form prescribed by regulation.

b. Each registration form shall state the firm's name, and any fictitious or trade name used in its operation, each primary location, including street and street number of the building and place where its business is to be conducted, and the names and residence addresses of its principal owners or officers.

c. The director shall establish by rule and collect an annual fee

from firm registrants, which shall not be more than the fee paid by employment agencies, to be used to the extent necessary to defray expenses incurred by the bureau in the performance of its duties under this section.

d. In addition to any act or practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.), it shall be a violation of this act for any registrant or its agent to:

(1) Make, or cause to be made, publish or cause to be published, any false, misleading, or deceptive advertisement or representation concerning the services or products that the registrant provides to job seekers.

(2) Disseminate information to a job seeker knowing or recklessly disregarding information that:

(a) The job does not exist or the job seeker is not qualified for the job;

(b) The job has been described or advertised by or on behalf of the registered firm in a false, misleading, or deceptive manner;

(c) The registrant has not confirmed the availability of the job at the time of dissemination of the information; or

(d) The registrant has not obtained written or oral permission to list the job from the employer or an authorized agent of the employer.

e. The director may refuse to issue, and may revoke, any registration for failure to comply with, or violation of, the provisions of this section or for any other good cause shown, within the meaning and purpose of this section. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant.

f. The director, instead of revoking a registration, may suspend the registration for a period of time determined to be proper, or assess a penalty in lieu of suspension, or both, and may issue a new registration notwithstanding the revocation of a prior registration, provided that the applicant is found to have become entitled to the new registration.

g. A registered consulting firm shall be permitted to provide temporary help services in the course of its business.

h. A registered firm may engage in activities requiring registration under sections 24 and 25 of this act if it complies with the requirements of those sections.

i. Any person who fails to comply with the provisions of this section or rules and regulations promulgated by the director shall be subject to the provisions of sections 14 through 22 of this act.

C.34:8-65 Registration of career consulting or outplacement organization; fee; bond; explanation of product or services; cancellation of contract; complaint.

24. a. Every career consulting or outplacement organization operating within this State shall, within 60 days following the effective date of this act and annually thereafter, register in writing with the chief on a form prescribed by regulation.

b. Each registration form shall state the organization's name, and any fictitious or trade name used in its operation, each primary location, including street and street number of the building and place where its business is to be conducted, and the names and residence addresses of its principal owners or officers.

c. In addition to registering pursuant to this section, each career consulting or outplacement organization shall notify the chief, in writing, whenever it utilizes any location, including mobile units, other than its primary location for services rendered to job seekers.

d. Every agent, duly authorized and empowered by the owner of the registered organization to solicit business or otherwise act as an agent of the registered organization, shall, within 60 days following the effective date of this act and annually thereafter, register, in writing, with the chief on a form prescribed by regulation.

e. The director shall establish by rule and collect an annual fee from organization and agent registrants, which shall not be more than that paid by employment agencies or agents, to be used to the extent necessary to defray all expenses incurred by the bureau in the performance of its duties under this section.

f. Each registered organization shall, at the time of its initial registration with the director and annually thereafter, post a bond in the amount of \$10,000 with a duly authorized surety company as surety, to be approved by the director. The bond shall be retained by the chief until 90 days after either the expiration or revocation of the registration. The director shall promulgate rules and regulations setting forth the terms and conditions of this bond and supply the prospective registrant firm with an approved form.

g. Every career consulting or outplacement organization registered under this section shall provide each prospective job seeker desiring its services or products with a written explanation of each service or product which it provides or makes available to job seekers

and the price for each service or product which shall be made available to the job seeker at the time of the signing of any contract for services or products.

h. Any job seeker who signs a contract with any registered organization shall have the right to cancel the contract within three calendar days of the time of its signing and, upon the return of any materials provided to the job seeker by the registered organization, shall be entitled to receive a full refund of any fee, charge, or commission paid by the job seeker.

i. Not more than one-third of any fee, charge or commission shall be collected by the registered organization for its services or products more than 60 days in advance of the date on which the registrant provides its services or products as stated in its contract.

j. Every registered organization shall respond, in writing, within nine calendar days of receipt of any written complaint by a job seeker, stating the registered organization's position with respect to the complaint. Copies of a job seeker's complaint and the response shall be kept in a separate file by the registered organization for a period of one year after the date of the resolution of the complaint, or two years after the date of the complaint, whichever is later.

k. If a demand for refund is denied by a registered organization and if the denial is found to have been in bad faith or if the registered organization fails to respond to a demand for a refund, a court in an action instituted by the job seeker shall award damages to the job seeker in an amount not to exceed \$200 in addition to actual damages sustained by the job seeker, together with reasonable attorneys' fees, filing fees, and reasonable costs of suit. If the registered organization refuses or is unable to pay the amount awarded by the court, the award may be satisfied out of the registered organization's bond.

l. A registered organization shall not:

(1) Negotiate a job seeker's compensation and demand or receive a percentage therefrom as a fee, charge, or commission unless the percentage fee, charge, or commission has been disclosed to and accepted by the job seeker in the contract;

(2) Contract with employers on behalf of a job seeker; or

(3) Solicit job openings from employers or otherwise act as an intermediary for job seekers.

m. Every contract for career consulting or outplacement organizations shall be in writing. A copy of the contract shall be given to the job seeker at the time the job seeker signs the contract. The contract shall contain all of the following:

(1) The name, address, and telephone number of the organization and the name of the organization's agent.

(2) The name and address of the individual signing the contract and the job seeker to whom the services are to be provided.

(3) A description of the services or products to be provided; a statement of when those services or products are to be provided and by which organizations, if other than the contracting organization; the term of the contract; and refund provisions, as applicable, if the described services or products are not provided according to the contract.

(4) The amount of the fee to be charged to or collected from the job seeker receiving the services or products or from any other individual, and the date or dates when that fee is required to be paid.

(5) The following statements, in at least 10-point bold-faced type:

"No verbal or written promise or guarantee of any job or employment is made or implied under the terms of this contract.

This organization is registered with the Bureau of Employment and Personnel Services of the State of New Jersey, (current address of the bureau). Inquiries concerning your contract may be sent to this address."

(6) The following statement, in at least 10-point bold-faced type:

"YOUR RIGHT TO CANCEL

You may cancel this contract for services or products, without any penalty or obligation, if notice of cancellation is given, in writing, within three calendar days after you have signed this contract.

To cancel this contract, just mail or deliver a signed and dated copy of the following cancellation notice or any other written notice of cancellation, or send a telegram containing a notice of cancellation, to (name of registrant) at (address of its place of business), not later than midnight of the third calendar day after you signed this contract.

CANCELLATION NOTICE

I hereby cancel this contract.

Dated: _____

Job seeker's Signature

Job seeker's Name (print)

Address"

The requirement that the contract include this statement regarding the right to cancel shall not apply when time is of the essence and the services or products must be performed or provided within three calendar days of the date that the contract is entered into pursuant to the request of the job seeker, if the job seeker furnishes the registered organization with a separate dated and signed personal statement in the job seeker's own handwriting, describing the situation requiring the immediate provision of services or products and expressly acknowledging and waiving the right to cancel the contract within three calendar days.

(7) Any further information specified in regulations adopted by the director.

n. The requirements of this section shall not apply to any person who receives no prepayment for services or products from a job seeker and who:

(1) Provides services or products strictly on an hourly basis, with no financial obligation required of the job seeker beyond the hourly fee for services or products rendered; or

(2) Provides outplacement services exclusively as part of a job seeker's benefit or severance package with a current or former employer.

o. Newspaper advertising pertaining to services offered or provided in this State by career consulting or outplacement organizations appearing within or adjacent to help-wanted advertising shall

contain the phrase “not an employment agency” in a clear, conspicuous, and prominent manner.

p. In addition to any act or practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.), it shall be a violation of this act for any registrant or its agent to:

(1) Make, or cause to be made, publish or cause to be published, any false, misleading, or deceptive advertisement or representations concerning the services or products that the registrant provides to job seekers.

(2) Disseminate information to a job seeker knowing or recklessly disregarding information that:

(a) The job does not exist or the job seeker is not qualified for the job;

(b) The job has been described or advertised by or on behalf of the registered organization in a false, misleading, or deceptive manner;

(c) The registrant has not confirmed the availability of the job at the time of dissemination of the information; or

(d) The registrant has not obtained written or oral permission to list the job from the employer or any authorized agent of the employer.

q. The director may refuse to issue, and may revoke, any registration for any failure to comply with, or violation of, the provisions of this section or for any other good cause shown, within the meaning and purpose of this section. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant. The director, instead of revoking any registration, may suspend the registration for a period of time as shall be determined to be appropriate, or assess a penalty in lieu of suspension, or both, and may issue a new registration notwithstanding the revocation of a prior registration provided that the applicant is found to have become entitled to the new registration.

r. A registered organization may engage in activities requiring registration under sections 23 and 25 of this act if it complies with the requirements of those sections.

s. Any person who fails to comply with the provisions of this section or rules and regulations promulgated by the director shall be subject to sections 14 through 22 of this act.

C.34:8-66 Registration of prepaid computer job matching service or job listing service; annual fee; bond; contract; refund conditions; violations.

25. a. Every prepaid computer job matching service or job listing service operating or providing services or products within this State shall, within 60 days following the effective date of this act and annually thereafter, register, in writing, with the chief on a form prescribed by regulation.

b. Each registration form shall state the service's name and fictitious or trade name used in its operation, each primary location, including street and street number of the building and place where its business is to be conducted, and the names and residence addresses of its principal owners or officers.

c. In addition to registering pursuant to this section, a prepaid computer matching service or job listing service shall notify the bureau in writing whenever it utilizes any location, including mobile units, other than its primary location for the provision of services or products to job seekers.

d. Every agent, duly authorized and empowered by the owner of the registered service to solicit business or otherwise act as an agent of the registered service, shall, within 60 days following the effective date of this act and annually thereafter, register, in writing, with the chief on a form prescribed by regulation.

e. The director shall establish by rule and collect an annual fee from service and agent registrants, which shall not be more than that paid by employment agencies or agents, to be used to the extent necessary to defray all expenses incurred by the bureau in the performance of its duties under this section.

f. Each service applicant shall at the time of its initial registration with the director and annually thereafter, post a bond in the amount of \$10,000 with a duly authorized surety company as surety, to be approved by the director. The bond shall be retained by the chief until 90 days after either the expiration or revocation of the registration. The director shall promulgate rules and regulations setting forth the terms and conditions of this bond and supply the service applicant firm with an approved form.

g. Prior to the acceptance of a fee from a job seeker, a registered service shall provide the job seeker with a written contract which shall include the following:

- (1) The name of the registered service and the address and tele-

phone number of each primary or other location of the registered service providing the listing to the job seeker.

(2) Acknowledgement of receipt of the registered service's fee schedule.

(3) A description of the service or product to be performed or product to be provided by the registered service, including significant conditions, restrictions, and limitations where applicable.

(4) A description of the job seeker's specifications for the employment opportunity, including, but not limited to, the following:

- (a) Type of job.
- (b) Interests of job seeker.
- (c) Qualifications of job seeker.
- (d) Salary, benefits, and other conditions of employment.
- (e) Location of job.

(5) The contract expiration date, which shall not be later than 90 days from the date of execution of the contract.

(6) A clause setting forth the right to a full refund of the fee paid in advance.

(7) The signature of the registered service's agent.

(8) The following statement, printed on the face of the contract in type no smaller than 10-point bold-faced type:

"This service is registered with the Bureau of Employment and Personnel Services of the State of New Jersey, (current address of bureau). Inquiries concerning your contract may be sent to this address."

(9) At the bottom of the contract a notice to the effect that the contract is the property of the job seeker and shall not be taken from the job seeker.

h. Every contract or receipt shall be made and numbered consecutively in original and duplicate, both to be signed by the job seeker and the service's agent. The original shall be given to the job seeker and the duplicate shall be kept on file at the service's primary location.

i. The form of contract proposed to be used by a registrant to effect compliance with this section shall be filed with the bureau prior

to use. Any modification of a form previously filed with the bureau, including a change in the name or a primary location of the registered service, shall also be filed prior to use.

j. A registered service shall refund in full the advance fee paid by a job seeker if the service does not, within five calendar days after execution of the contract, supply at least three employment opportunities then available to the job seeker and meeting the specifications of the contract. A registered service will be deemed to have supplied information meeting the specifications of the job seeker if the information supplied meets the contract specifications with reference to:

- (1) Name of employer and type of job;
- (2) Interests of job seeker;
- (3) Qualifications of job seeker;
- (4) Salary, benefits, and other conditions of employment;
- (5) Location of job; and
- (6) Any other specification expressly set forth in the contract.

A demand for the return of the fee shall be made by or on behalf of the job seeker within 10 calendar days following the expiration of the five-day period referred to above by delivery or by registered or certified mail to the address of the office or location set forth in the contract.

k. A registered service shall refund any amount in excess of a \$25 service charge to the job seeker if the job seeker does not obtain a job, provided that the job seeker demands a return of that part of the fee within 10 calendar days after the expiration of the contract.

l. If employment, once obtained, lasts less than 90 days, the fee paid shall be refunded as specified in subsection b. of section 10 of this act.

m. Each contract shall also contain refund provisions, approved by the bureau, which shall, unless different language is approved in writing by the bureau prior to use, read as follows:

“RIGHT TO REFUND

If within five calendar days after payment of any advance fee, the registrant has not supplied the job seeker with at least three available employment opportunities meeting the specifications of the contract

as to (1) name of the employer and type of job; (2) interest of job seeker; (3) qualifications of job seeker; (4) salary, benefits, and other conditions of employment; (5) location of job; and (6) any other specification expressly set forth in the contract, the full amount of the fee paid shall be refunded to the job seeker within 10 calendar days after the expiration of the five-day period."

If the job seeker does not obtain a job through the services of the registered service, any amount paid in fees in excess of a \$25 service charge shall be refunded to the job seeker, upon demand by the job seeker made within 10 calendar days of the expiration of the contract.

n. Every registered service shall respond, in writing, within nine calendar days of receipt of any written complaint by a job seeker, stating the registered service's position with respect to that complaint. A copy of a job seeker's complaint and the response shall be kept in a separate file by the registered service for a period of one year after the date of the resolution of the complaint, or two years after the date of the complaint, whichever is later.

o. If a demand for refund is denied by a registered service, and if the denial is found to have been in bad faith or if the registered service fails to respond to a demand for a refund, a court in an action instituted by the job seeker shall award damages to the job seeker in an amount not to exceed \$200.00 in addition to actual damages sustained by the job seeker, together with reasonable attorneys' fees, filing fees, and reasonable costs of suit. If the registered service refuses or is unable to pay the amount awarded by the court, the award may be satisfied out of the registered service's bond.

p. In addition to any act or practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.), it shall be a violation of this act for any registrant or its agent to:

(1) Make, or cause to be made, publish or cause to be published, any false, misleading, or deceptive advertisement or representations concerning the services or products that the registrant provides to job seekers; or

(2) Disseminate information to a job seeker knowing or recklessly disregarding information that:

(a) The job does not exist or the job seeker is not qualified for the job;

(b) The job has been described or advertised by or on behalf of the registered service in a false, misleading, or deceptive manner;

(c) The registrant has not confirmed the availability of the job at the time of dissemination of the information; or

(d) The registrant has not obtained written or oral permission to list the job from the employer or an authorized agent of the employer.

q. The director may refuse to issue, and may revoke, any registration for any failure to comply with, or any violation of, the provisions of this section or for any other good cause shown, within the meaning and purpose of this section. A refusal shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant as the case may be. The director instead of revoking any registration may suspend the registration for a period of time as determined to be proper, or assess a penalty in lieu of suspension, or both; and may issue a new registration notwithstanding the revocation of a prior registration provided that the applicant is found to have become entitled to the new registration.

r. Any person who fails to comply with the provisions of this section or rules and regulations promulgated by the director shall be subject to the provisions of sections 14 through 22 of this act.

C.52:17B-139.5 Functions, powers, duties transferred to Bureau of Employment and Personnel Services.

26. All the functions, powers and duties of the Private Employment Agency Section in the Division of Consumer Affairs in the Department of Law and Public Safety are hereby transferred to the Bureau of Employment and Personnel Services in the Division of Consumer Affairs. That transfer shall be made in accordance with the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

C.52:17B-139.6 Validity of previous licenses unaffected.

27. Nothing in this act shall affect the validity of any license previously issued to any person by the Private Employment Agency Section in the Division of Consumer Affairs and Office of the Attorney General in the Department of Law and Public Safety, but each person holding a previously issued license shall, in all other respects, be subject to the provisions of this act.

Repealer.

28. P.L.1951, c.337 (C.34:8-24 et seq.) and section 6 of P.L.1981, c.500 (C.34:8-26.1) are repealed.

29. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 332

AN ACT concerning an economic assessment of the State Development and Redevelopment Plan, supplementing P.L.1985, c.398 (C.52:18A-196 et seq.) and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.52:18A-202.1 Findings, declarations.

1. The Legislature finds and declares that:

a. There are many concerns associated with the design and implementation of the State Development and Redevelopment Plan (hereafter referred to as the "Plan"), including:

- (1) maintaining beneficial growth;
- (2) improving environmental quality;
- (3) assuring cost-effective delivery of infrastructure and other public services;
- (4) improving intergovernmental coordination;
- (5) preserving the quality of community life; and
- (6) redeveloping the State's major urban areas.

b. Each of these concerns is an important issue for further study and each should serve as a measure of the efficacy of the Plan.

c. However, these concerns are not mutually exclusive and, therefore, a balance among them must be achieved to maximize the well-being for the State and its residents.

d. The process of cross-acceptance of the State Development and Redevelopment Plan required under the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), is a process designed to elicit the greatest degree of public participation in order to encourage the development of a consensus among the many, sometimes competing, interests in the State.

e. This consensus will be facilitated by the availability of sufficient information concerning the impact the State Development and Redevelopment Plan may have on particular regions and on the overall economic well-being of the State.

f. The Plan evolves through three phases:

(1) the Preliminary Plan, which will serve as the basis for cross-acceptance;

(2) the Interim Plan, which will reflect the changes occurring during the cross-acceptance process; and

(3) the Final Plan, which is to be implemented after approval by the State Planning Commission.

g. A two-stage process shall be established to examine the economic, environmental, infrastructure, community life, and inter-governmental coordination impacts of the Plan. This procedure shall consist of an assessment of the impacts of the Interim Plan and an on-going monitoring and evaluation program after the Final Plan is adopted.

h. The results of the Assessment Study shall identify desirable changes to be incorporated into the Final Plan. These studies shall describe the impacts of the policies and strategies proposed in the Plan (hereafter referred to as the "Plan" impacts) relative to the impacts that would likely occur without a Plan (hereafter referred to as "Trend" impacts). In examining the impacts of Plan and Trend, any significant regional differences that result shall be identified and analyzed. Where appropriate, the study shall also distinguish short-term and long-term impacts.

i. It is necessary to conduct an economic assessment of the Plan and Trend impacts and to make the results of that assessment available before adoption of the Final Plan. Work on the development of the evaluation methodology and, where possible, the collection of data for the assessment study shall commence upon enactment of this bill. Some factors that shall be addressed during cross-acceptance include:

(1) Changes in property values, including farmland, State and local expenditures and tax revenues, and regulations;

(2) Changes in housing supply, housing prices, employment, population and income;

(3) Costs of providing the infrastructure systems identified in the State Planning Act;

(4) Costs of preserving the natural resources as identified in the State Planning Act;

(5) Changes in business climate; and

(6) Changes in the agricultural industry and the costs of preserving farmland and open spaces.

C.52:18A-202.2 Studies; review.

2. a. The Office of State Planning in consultation with the Office of Economic Policy, shall utilize the following:

- (1) Conduct portions of these studies using its own staff;
- (2) Contract with other State agencies to conduct portions of these studies; and
- (3) Contract with an independent firm or an institution of higher learning to conduct portions of these studies.

b. Any portion of the studies conducted by the Office of State Planning, or any other State agency, shall be subject to review by an independent firm or an institution of higher learning.

c. The Assessment Study and the oversight review shall be submitted in the form of a written report to the State Planning Commission for distribution to the Governor, the Legislature and the governing bodies of each county and municipality in the State during the cross-acceptance process and prior to the adoption of the Final Plan.

d. A period extending from at least 45 days prior to the first of six public hearings, which are required under the State Planning Act, P.L.1985, c.398 (C.52:18A-196 et seq.), to 30 days following the last public hearing shall be provided for counties and municipalities to review and respond to the studies. Requests for revisions to the Interim Plan shall be considered by the State Planning Commission in the formulation of the Final Plan.

C.52:18A-202.3 On-going monitoring and evaluation program.

3. a. The Final Plan shall include the appropriate monitoring variables and plan targets in the economic, environmental, infrastructure, community life, and intergovernmental coordination areas to be evaluated on an on-going basis following adoption of the Final Plan.

b. In implementing the monitoring and evaluation program, if Plan targets are not being realized, the State Planning Commission shall evaluate reasons for the occurrences and determine if changes in Plan targets or policies are warranted.

c. The Office of State Planning shall include in its annual report

results of the on-going monitoring and evaluation program and forward the report to the Governor and the Legislature.

4. There is appropriated to the State Planning Commission from the General Fund the sum of \$200,000 to cover the cost of contracting for the economic assessment and monitoring and evaluation studies.

5. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 333

AN ACT concerning air pollution and amending P.L.1954, c.212.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 19 of P.L.1954, c.212 (C.26:2C-19) is amended to read as follows:

C.26:2C-19 Actions to prohibit and prevent violations; civil administrative penalty; civil penalty; notice of release of air contaminants; crimes of third or fourth degree.

19. a. If any person violates any of the provisions of this act or any code, rule, regulation or order promulgated or issued pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

b. Any person who violates the provisions of this act or any code, rule, regulation or order promulgated or issued pursuant to this act shall be liable to a civil administrative penalty of not more than \$10,000.00 for the first offense, not more than \$25,000.00 for the second offense, and not more than \$50,000.00 for the third and each subsequent offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. No civil administrative penalty shall be levied except upon an administrative order issued pursuant to section 14 of P.L.1954, c.212 (C.26:2C-14).

c. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

d. Any person who violates the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.) or any code, rule, regulation, or order promulgated or issued pursuant to that act, or a court order issued pursuant to subsection a. of this section, or who fails to pay a civil administrative penalty in full pursuant to section 9 of P.L.1962, c.215 (C.26:2C-14.1), is subject, upon order of the court, to a civil penalty of not more than \$10,000.00 for the first offense, not more than \$25,000.00 for the second offense, and not more than \$50,000.00 for the third and each subsequent offense. If the violation is of a continuing nature, each day during which the violation continues, or each day in which the civil administrative penalty is not paid in full, constitutes an additional, separate and distinct offense. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Law Division of the Superior Court has jurisdiction to enforce "the penalty enforcement law."

e. A person who causes a release of air contaminants in a quantity or concentration which poses a potential threat to public health, welfare or the environment or which might reasonably result in citizen complaints shall immediately notify the department. A person who fails to so notify the department is liable to the penalties and procedures prescribed in this section.

f. Any person who:

(1) purposely or knowingly violates the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.), or any code, rule, regulation, administrative order, or court order promulgated or issued pursuant thereto, is guilty of a crime of the third degree;

(2) recklessly violates the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.), or any code, rule, regulation, administrative order, or court order promulgated or issued pursuant thereto, is guilty of a crime of the fourth degree.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 334

AN ACT directing the New Jersey State Museum, in cooperation with the Department of Military and Veterans' Affairs, to collect Medals of Honor and related memorabilia for display as a permanent exhibit.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.18A:73-20.2 Findings, declarations.

1. The Legislature finds and declares that:
 - a. The Medal of Honor, instituted in 1861 for the Navy and in 1862 for the Army, is awarded by the Congress to members of the United States Armed Forces for "conspicuous gallantry and intrepidity at the risk of life, above and beyond the call of duty, in action involving actual conflict with an opposing armed force."
 - b. Since this great honor was established, only 3,412 such medals have been awarded to deserving members of the armed forces for extremely heroic acts which typically involve suffering severe wounds or death, making this the highest decoration given by the United States Government.
 - c. Eight men from New Jersey received this outstanding honor for their conspicuous bravery in World War II, the Korean Conflict or the Vietnam Conflict.
 - d. It is fitting and proper that this State honor these exemplary men and keep alive for future generations of New Jersey residents the story of their heroic bravery.

C.18A:73-20.3 New Jersey State Museum to collect Medals of Honor and related memorabilia.

2. a. The New Jersey State Museum, in cooperation with the Department of Military and Veterans' Affairs, shall develop and implement a program to collect Medals of Honor and appropriate memorabilia related to the awarding of the medals from those persons, or the relatives or friends of those persons, who have been awarded the medal since its establishment and who at one time resided or continue to reside in New Jersey.
- b. The medals and memorabilia related to the awarding of the medals shall be collected from the owners of those materials on a voluntary basis.

c. The museum is directed to record, document and preserve the collection and to make it accessible through a long-term interpretive exhibition which will include portions of the collection shown on a rotating basis.

3. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 335

AN ACT concerning anabolic steroids, amending P.L.1962, c.113 and supplementing Title 2C of the New Jersey Statutes and P.L.1970, c.226.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.2C:35-2.1 Definitions.

1. As used in this act:

a. "Anabolic steroid" means a material, compound, mixture, or preparation that contains an anabolic steroid or an immediate precursor that includes any of the following:

- Chorionic gonadotrophin
- Clostebol
- Dehydrochlormethyltestosterone
- Ethylestrenol
- Fluoxymesterone
- Mesterolone
- Metenolone
- Methandienone
- Methandro stenolone
- Methyltestosterone
- Nandrolone decanoate
- Nandrolone phenpropionate
- Norethandrolone
- Oxandrolone
- Oxymesterone
- Oxymetholone
- Stanozolol
- Testosterone propionate
- Testosterone-like related compounds

b. "Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer an anabolic steroid or immediate precursor in the course of professional practice or research in this State.

c. "Immediate precursor" means a substance which the State Department of Health has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of an anabolic steroid, the control of which is necessary to prevent, curtail, or limit such manufacture.

C.2C:35-5.1 Unlawful for nonpractitioner to dispense or possess anabolic steroid or immediate precursor.

2. It is unlawful for any person who is not a practitioner acting in the course of his professional practice to knowingly or purposely manufacture, distribute or dispense, or to possess or have under his control with intent to manufacture, distribute or dispense, an anabolic steroid or immediate precursor. Any person who violates this section shall be guilty of a crime of the third degree.

C.2C:35-10.1 Possession without prescription; crime of fourth degree.

3. It is unlawful for any person, knowingly or purposely, to obtain, or to possess, actually or constructively, an anabolic steroid or immediate precursor, unless the substance was obtained directly, or pursuant to a valid prescription or order form from a practitioner, while acting in the course of his professional practice. Any person who violates this section is guilty of a crime of the fourth degree.

4. The Commissioner of Health shall conduct a study on the feasibility of including anabolic steroids in the schedules of controlled dangerous substances set forth in sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8) and section 4 of P.L.1971, c.3 (C.24:21-8.1). In determining whether to include anabolic steroids in such schedules, the commissioner shall consider the actual or relative potential for abuse of these substances; scientific evidence of their pharmacological effects; the state of current scientific knowledge regarding them; the history and current pattern of abuse; what, if any, risk there is to the public health, and the psychic or physiological dependence liability of these substances. The commissioner shall report to the Legislature and the Governor the results of the study not later than nine months after the effective date of this act.

C.24:21-8.2 Power of commission to add or delete substances to list of anabolic steroids.

5. The commissioner may add substances to or delete substances from the definition of anabolic steroids set forth in section 1 of P.L.1989, c.335 (C.2C:35-2.1), and shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

6. Section 1 of P.L.1962, c.113 (C.2A:170-77.8) is amended to read as follows:

C.2A:170-77.8 Unlawful use, possession or control, or under influence of prescription legend drug or stramonium preparation.

1. Except as hereinafter provided, any person who uses or is under the influence of, or who possesses or has under his control, in any form, any prescription legend drug which is not a narcotic, depressant or stimulant drug, anabolic steroid as defined in section 1 of P.L.1989, c.335 (C.2C:35-2.1), or controlled dangerous substance as defined in N.J.S.2C:35-2 or section 2 of P.L.1970, c.226 (C.24:21-2) or any stramonium preparation, unless obtained from, or on a valid prescription of, a duly licensed physician, veterinarian or dentist, is a disorderly person.

In a prosecution under this act, it shall not be necessary for the State to prove that the accused did use or was under the influence of any specific drug or drugs except for stramonium preparations, but it shall be sufficient for a conviction under this act for the State to prove that the accused did use or was under the influence of some drug or drugs as aforesaid by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any such drug.

As used in this act, "stramonium preparation" means a preparation prepared from the leaves, seeds, or any other part of the stramonium plant in the form of a powder, pipe mixture, cigarette, or any other form, with or without admixture of other ingredients. "Stramonium plant" means the plant *Datura Stramonium* Linne, including *Datura Tatula* Linne.

7. Section 2 of P.L.1962, c.113 (C.2A:170-77.9) is amended to read as follows:

C.2A:170-77.9 Unlawful sale of prescription legend drug or stramonium preparation.

2. Except as hereinafter provided, any person who sells, dispenses or gives away, in any form, any prescription legend drug which is

not a narcotic, depressant or stimulant drug, not an anabolic steroid as defined in section 1 of P.L.1989, c.335 (C.2C:35-2.1), or controlled dangerous substance as defined in N.J.S.2C:35-2 or section 2 of P.L.1970, c.226 (C.24:21-2), or any stramonium preparation, is a disorderly person.

8. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 336

AN ACT prohibiting disclosure of the identity of the certain crime victims and supplementing Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.2A:82-46 Disclosure of identity of victims of certain crimes under age 18 prohibited.

1. a. In prosecutions for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, endangering the welfare of children under N.J.S.2C:24-4, or in any action alleging an abused or neglected child under P.L.1974, c.119 (C.9:6-8.21 et seq.), the name, address, and identity of a victim who was under the age of 18 at the time of the alleged commission of an offense shall not appear on the indictment, complaint, or any other public record as defined in P.L.1963, c.73 (C.47:1A-1 et seq.). In its place initials or a fictitious name shall appear.

b. Any report, statement, photograph, court document, indictment, complaint or any other public record which states the name, address and identity of a victim shall be confidential and unavailable to the public. Unless authorized pursuant to subsection c. of this section, any person who purposefully discloses, releases or otherwise makes available to the public any of the above-listed documents which contain the name, address and identity of a victim who was under the age of 18 at the time of the alleged commission of an offense enumerated in subsection a. of this section shall be guilty of a disorderly persons offense.

c. The information described in this act shall remain confidential and unavailable to the public unless the court, after a hearing, determines that good cause exists for disclosure. The hearing shall be

held after notice has been made to the victim, parents of victim, spouse, or other person legally responsible for the maintenance and care of the victim, and to the person charged with the commission of the offense, counsel or guardian of that person.

d. Nothing contained herein shall prohibit the court from imposing further restrictions with regard to the disclosure of the name, address, and identity of the victim when it deems it necessary to prevent trauma or stigma to the victim.

2. This act shall take effect on the 30th day after enactment.

Approved January 12, 1990.

CHAPTER 337

AN ACT concerning alternate operator service providers, and supplementing chapter 17 of Title 48 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.48:17-23 Definitions.

1. As used in this act:

“Aggregator” means a person or entity, which is not a telecommunications carrier, who in the ordinary course of its business makes telephones available to the public or to transient users of its business, including, but not limited to, hotels, motels, hospitals, or universities, and which provides operator-assisted services through an operator service provider.

“Alternate operator service provider” means a non-facilities based telecommunications carrier who is a reseller leasing lines from local exchange carriers and interexchange carriers and who, using these leased facilities along with their own operators, provides operator-assisted services.

“Operator-assisted services” means services which assist callers in the placement or charging of a telephone call, either through live intervention or automated intervention.

“Operator service provider” means every telecommunications carrier which provides operator-assisted services.

C.48:17-24 Requirements for alternate operator service providers.

2. The Board of Public Utilities shall promulgate, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to effectuate the purposes of this act concerning alternate operator service providers, which shall include, but not be limited to, the following operating requirements for the provision of operator-assisted services:

a. An alternate operator service provider shall provide callers with rate quotes, including any surcharges, upon request and without charge.

b. An alternate operator service provider shall notify a caller, before inception of billing, that the alternate operator service provider is handling the operator-assisted call, by verbal identification by the alternate operator service provider and by a form of signage on the telephone equipment owned or controlled by the aggregator or by the alternate operator service provider if the alternate operator service provider owns or provides the telephones.

c. Every contract between an alternate operator service provider and an aggregator shall include a provision which provides a caller using a telephone owned or controlled by the aggregator or alternate operator service provider with the means to access, where technically possible, any other operator service provider operating in the relevant geographic area, through the access method chosen by the other operator service provider, or to access a local exchange operator or to access the emergency telephone number that serves the jurisdiction where the telephone is located. However, in order to prevent the fraudulent use of its service, an alternate operator service provider or an aggregator may block access to other operator service providers if either obtains a waiver for this purpose from the board or the Federal Communications Commission. Such waivers granted by the board may be for a limited period of time on a specific piece of equipment or location upon application to the board.

d. No alternate operator service provider shall transfer a call to another operator service provider unless that transfer is accomplished at, and billed from, the point or origination of the call. If such a transfer is not technically possible, the alternate operator service provider shall inform the caller that the call cannot be transferred as requested and that the caller should hang up and attempt to reach another operator service provider through the means provided by that other operator service provider.

In addition, the board shall adopt a schedule of fines for violation of these rules and regulations by an alternate operator service provider. The board shall not impose a fine exceeding \$5,000 for each infraction.

3. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 338

AN ACT concerning local budget caps and amending P.L.1976, c.68.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 7 of P.L.1976, c.68 is amended to read as follows:

7. This act shall take effect immediately and be applicable to the tax years beginning in 1977 and shall expire December 31, 1990.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 339

AN ACT concerning police officer awards and amending N.J.S.40A:14-153.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.40A:14-153 is amended to read as follows:

Records and badges of awards to members and officers.

40A:14-153. Whenever an award shall be made to a member or officer of the police department or force for heroic or meritorious service by a national or Statewide police service organization or a governmental or voluntary agency, a record of such award shall be made by the chief or other person in charge of the department or force of which the recipient is a member or officer, and it shall

constitute part of his service record. If the recipient receives a bar, medal or other similar device representing said award which conveniently can be worn, upon authorization, it shall be worn above or opposite the police badge, whichever is appropriate. Medals awarded by the Fraternal Order of Police Grand Lodge, the Fraternal Order of Police New Jersey State Lodge, Honor Legion or the New Jersey State Policemen's Benevolent Association shall not require authorization to be worn. Unauthorized persons shall not wear any such bar or device or imitation thereof.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 340

AN ACT concerning the membership of the New Jersey State Board of Accountancy and amending P.L.1977, c.144.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 5 of P.L.1977, c.144 (C.45:2B-5) is amended to read as follows:

C.45:2B-5 Membership of board; appointment; terms; vacancies.

5. The board shall consist of 12 members, seven of whom shall have been engaged in practice as certified public accountants and two of whom shall have been engaged in practice as public accountants in this State for at least five years, two of whom shall be public members and one of whom shall be a State executive department member as prescribed pursuant to the provisions of P.L.1971, c.60 (C.45:1-2.1 et seq.). Each certified public accountant member and public accountant member shall be appointed by the Governor for a term of three years and shall hold office until his successor is appointed and qualified. Any vacancy on the board, however created, shall be filled by the Governor for the unexpired term only.

The public members and the State executive department member shall be appointed by the Governor in accordance with and subject to the provisions of P.L.1971, c.60 (C.45:1-2.1 et seq.).

No certified public accountant or public accountant member may serve more than two successive terms in addition to any unexpired

term to which he has been appointed, provided, that any member who has served two such successive terms may be reappointed after an intervening period of one year.

The Governor may remove a certified public accountant member, public accountant member or public member from office, for cause, upon notice and opportunity to be heard.

2. This act shall take effect immediately.

Approved January 12, 1990.

CHAPTER 341

AN ACT concerning annual salaries in the Executive Branch and amending P.L.1974, c.55.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1974, c.55 (C.52:14-15.107) is amended to read as follows:

C.52:14-15.107 Departmental officers; annual salaries.

1. Notwithstanding the provisions of the annual appropriations act and section 7 of P.L.1974, c.55 (C.52:14-15.110), the Governor shall fix and establish the annual salaries for the following officers within the limits as follows:

Title	Salary Not to Exceed
Agriculture Department	
Secretary of Agriculture	\$115,000
Banking Department	
Commissioner of Banking	\$115,000
Commerce, Energy and Economic Development Department	
Commissioner of Commerce, Energy and Economic Development	\$115,000
Community Affairs Department	
Commissioner of Community Affairs	\$115,000
Corrections Department	
Commissioner of Corrections	\$115,000
Education Department	
Commissioner of Education	\$115,000

Title	Salary Not to Exceed
Environmental Protection Department	
Commissioner of Environmental Protection	\$115,000
Health Department	
Commissioner of Health	\$115,000
Higher Education Department	
Chancellor	\$115,000
Human Services Department	
Commissioner of Human Services	\$115,000
Insurance Department	
Commissioner of Insurance	\$115,000
Labor Department	
Commissioner of Labor	\$115,000
Law and Public Safety Department	
Attorney General	\$115,000
Military and Veterans' Affairs Department	
Adjutant General	\$115,000
Personnel Department	
Commissioner of Personnel	\$115,000
Public Advocate Department	
Public Advocate	\$115,000
State Department	
Secretary of State	\$115,000
Transportation Department	
Commissioner of Transportation	\$115,000
Treasury Department	
State Treasurer	\$115,000
Members, Board of Public Utilities	\$115,000

2. This act shall take effect January 1, 1991.

Approved January 12, 1990.

CHAPTER 342

AN ACT concerning the annual salary of the Governor and amending P.L.1973, c.357.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 1 of P.L.1973, c.357 (C.52:14-15.104c) is amended to read as follows:

C.52:14-15.104c Annual salary of Governor.

1. The annual salary of the Governor shall be fixed and established at \$130,000.

2. This act shall take effect January 1, 1991.

Approved January 12, 1990.

CHAPTER 343

AN ACT concerning annual salaries in the Judicial Branch and amending P.L.1974, c.57.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 1 of P.L.1974, c.57 (C.2A:1A-6) is amended to read as follows:

C.2A:1A-6 Salaries of justices and judges.

1. Annual salaries of the following justices and judges are fixed and established as follows:

Title	Salary
Chief Justice of the Supreme Court	\$120,000
Associate Justice of the Supreme Court	\$112,000
Judge of the Superior Court, Appellate Division	\$108,000
Judge of the Superior Court, Assignment Judge	\$105,000
Judge of the Superior Court	\$100,000

2. This act shall take effect January 1, 1991.

Approved January 12, 1990.

CHAPTER 344

AN ACT concerning urban womens' centers, amending and supplementing P.L.1985, c.189.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 5 of P.L.1985, c.189 (C.52:27D-292) is amended to read as follows:

C.52:27D-292 Services and programs offered.

5. Through the demonstration training and resource model center or other similar centers established by the division or the centers specified in section 2 of this 1989 amendatory and supplementary act, the division shall undertake to provide at least seven of the following services:

a. Job counseling services which are specifically designed to prepare women to enter or reenter the work force by assisting them in acquiring knowledge of their talents and skills in relation to existing traditional and nontraditional job opportunities and to those which are emerging as a result of new employment trends;

b. A job training and job placement service which assists participants in gaining admission to existing public and private job training programs and opportunities by cooperating, wherever possible, with appropriate State and local government agencies and private employers. This training and placement service shall foster the development of partnerships with industry, particularly those concerns which are associated with urban enterprise zones, and the enhancement of the neighborhood and communities which surround the training and resource center. To the extent possible, the training and placement service shall consult with the area private industry councils established pursuant to the provisions of the federal Job Training Partnership Act, Pub. L. 97-300 (29 U.S.C. § 1501 et seq.) in order to help identify local job opportunities or areas of expansion in private industry;

c. Self-help programs and mentoring projects, including workshops, group discussions, and dissemination of information about existing federal, State, and local employment, education, health, and other community services which provide assistance in overcoming barriers to employment. These programs shall include outreach and information about other programs which are determined to be of interest and benefit to working parents, women newly entering or

reentering the work force after a prolonged absence from it, those in need of financial management services (including information and assistance with respect to credit, insurance, taxes, loans, and related financial matters), and women who need information about a diversity of housing problems;

d. Counseling and referral through the use of workshops and group discussions, with the cooperation of State and local women's organizations to help promote identification with role models and the use of mentors in entering the world of work;

e. Information and referral services concerning federal and State employment, education, legal counseling, health, and public assistance programs;

f. Child care, which shall be funded independently of the appropriation provided in section 14 of this act, to enable women to participate in and benefit from the services provided by these training and resource centers;

g. Technical assistance to allow for the expansion of other multi-purpose programs aimed at enhancing the employability of urban women throughout the State, including on-site consultation, workshops within the division or at one or more community locations, and facilitation of access to relevant informational material, and professional and lay resources;

h. Pre-business and business development training to develop a business plan, and single session activities on specific topics, including but not limited to bookkeeping, pricing, and marketing, for women with an interest in self-employment or small business ownership as a non-traditional career option. Individual and group business counseling sessions shall be included in the training; and

i. Information and guidance on accessing post-secondary education and personal and academic counseling, to facilitate entry or re-entry into educational institutions as well as the completion of educational programs.

2. The sum appropriated pursuant to this 1989 amendatory and supplementary act shall be allocated to any center that was entitled to funds from the "Displaced Homemakers Act," P.L.1979, c.125 (C.52:27D-43.18 et seq.) in the State fiscal year 1988 and that is located in a city of the first class with a population of more than 300,000 according to the 1980 federal decennial census.

3. This act shall take effect immediately.*

Approved January 16, 1990.

*Appropriation deleted by line-item veto of the Governor. See statement following.

Statement to Chapter 344
(Senate Bill No. 1263 (First Reprint))

Pursuant to Article V, Section I, paragraph 15 of the Constitution, I am appending to Senate Bill No. 1263 (First Reprint) at the time of signing it my statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill expands the list of services provided by urban women's centers under the Job Training Center for Urban Women Act by adding two categories to the list. These categories are pre-business and business development training and post-secondary education guidance. This bill also appropriates \$250,000 from the General Fund to the Department of Community Affairs for distribution to the Wise Women's Center in Newark. This Center has already received \$85,000 in State support in Fiscal Year 1990.

I endorse the provision of the bill which adds two categories to the list of services provided under the Job Training Center for Urban Women Act. However, in this period of fiscal restraint, I am reluctant to endorse an appropriation for the expansion of programs at a particular women's center. This grant would increase State monies for this Center by nearly 300 percent and would not be awarded on a competitive basis. Moreover, this type of appropriation is best evaluated in conjunction with all other State spending requests during the annual appropriations process so that the State's budgetary priorities can be carefully established. Therefore, I have decided to delete the appropriation from the bill.

Accordingly, I herewith append the following statement of objections to the sums, or parts thereof, appropriated by this bill:

<u>Page 1, Title, Line 2:</u>	After "c.189" delete ", and making an appropriation"
<u>Page 3, Section 3, Lines 32-34:</u>	Delete in entirety
<u>Page 3, Section 4, Line 35:</u>	Delete "4." insert "3."

Respectfully,
Thomas H. Kean
Governor

CHAPTER 345

A SUPPLEMENT to "An Act making appropriations for the support of the State government and the several public purposes for the fiscal year ending June 30, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L.1987, c.154).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. In addition to the sums appropriated under P.L.1987, c.154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

74 DEPARTMENT OF STATE

30 Education, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

07-2540 Development of

Historical Resources \$153,400

Special Purpose:

New Jersey History Film Series (\$153,400)

2. This act shall take effect immediately.

Approved January 16, 1990.

CHAPTER 346

A SUPPLEMENT to "An Act making appropriations for the support of the State government and the several public purposes for the fiscal year ending June 30, 1988 and regulating the disbursement thereof," approved June 30, 1987 (P.L.1987, c.154).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. In addition to the sums appropriated under P.L.1987, c.154, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

07-2540 Development of

Historical Resources \$131,000

Special Purpose:

Publication of History of
 the New Jersey State House
 and New Jersey History
 Pamphlet Series; and Black
 Migration Research Project ... (\$131,000)

2. This act shall take effect immediately.

Approved January 16, 1990.

CHAPTER 347

AN ACT concerning State parks and forests and amending P.L.1983,
 c.324.

BE IT ENACTED by the Senate and General Assembly of the State
 of New Jersey:

1. Section 7 of P.L.1983, c.324 (C.13:1L-7) is amended to read
 as follows:

**C.13:1L-7 Power to enter, inspect, survey, investigate ownership and take title to
 lands; eminent domain; acquisition of land with defective title; acquisition of land
 acquired by municipality under tax liens.**

7. a. For the purposes of acquiring, holding, managing or de-
 veloping lands or other properties for a State park or forest, the
 department shall have the power to enter, inspect, survey, investigate
 ownership and take title to, in fee or otherwise, by purchase, gift,
 devise or eminent domain, any appropriate lands of the State that
 would be useful as a State park or forest.

b. The power of eminent domain shall extend to all rights,
 interests and easements in any property in the State.

c. The department shall exercise its power of eminent domain in accordance with the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

d. Whenever the department wishes to acquire, by eminent domain, title to unoccupied lands and it appears that such title may be defective in any manner, the department may, with the consent of the Attorney General, acquire the best available title, notwithstanding that such title is defective or incomplete.

e. For purposes of this amendatory and supplementary act, the department may acquire by gift, grant or by payment of tax lien any municipal lands that have been acquired by the municipality through the foreclosure of a tax lien pursuant to chapter 5 of Title 54 (Taxation).

f. If the department acquires or owns title to, for the purposes of this act, more than 10 acres of land in a municipality, the department shall annually pay that municipality one dollar (\$1.00) per acre for each acre of land so acquired, except that this sum shall not be paid if any other payments in lieu of taxes are determined to be due and payable to that municipality pursuant to any other law.

g. No title or interest in any of the lands or properties acquired or held by the department for the purposes of this amendatory and supplementary act shall be subject to be taken by condemnation proceedings through the power of eminent domain.

2. This act shall take effect immediately and remain inoperative until January 1, 1990, or until the expiration of the "Pinelands Municipal Property Tax Stabilization Act of 1983," P.L.1983, c.551 (C.54:1-68 et seq.), if that act expires thereafter, and shall first apply to State payments made in the State fiscal year commencing thereafter.

Approved January 16, 1990.

CHAPTER 348

AN ACT concerning the Uniform Commercial Code, revising parts of the statutory law pertaining thereto and adding certain sections to Title 12A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. N.J.S.12A:1-201 is amended to read as follows:

General definitions.

12A:1-201. General Definitions.

Subject to additional definitions contained in the subsequent chapters of this act which are applicable to specific chapters or subchapters thereof, and unless the context otherwise requires, in this act:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this act (12A:1-205 and 12A:2-208). Whether an agreement has legal consequences is determined by the provisions in this act, if applicable; otherwise by the law of contracts (12A:1-103). (Compare "Contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill.

"Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at well-head or minehead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NON-NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this act and any other applicable rules of law. (Compare "Agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt, or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this act to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or a certificated investment security drawn, issued, or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or accept and pay, where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when:

- (a) He has actual knowledge of it; or
- (b) He has received a notice or notification of it; or

(c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this act.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when:

(a) It comes to his attention; or

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this act.

(30) "Person" includes an individual or an organization (See 12A:1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until

evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (12A:2-401) is limited in effect to a reservation of a "security interest." The term also includes any interest of a buyer of accounts or chattel paper which is subject to chapter 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under 12A:2-401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with chapter 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (12A:2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt

of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value." Except as otherwise provided with respect to negotiable instruments and bank collections (12A:3-303, 12A:4-208 and 12A:4-209) a person gives "value" for rights if he acquires them:

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) As security for or in total or partial satisfaction of a pre-existing claim; or

(c) By accepting delivery pursuant to a pre-existing contract for purchase; or

(d) Generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

2. N.J.S.12A:5-114 is amended to read as follows:

Issuer's duty and privilege to honor; right to reimbursement.

12A:5-114. Issuer's Duty and Privilege to Honor; Right to Reimbursement.

(1) An issuer shall honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale

or other contract between the customer and the beneficiary. The issuer is not excused from honor of such a draft or demand by reason of an additional general term that all documents shall be satisfactory to the issuer, but an issuer may require that specified documents shall be satisfactory to it.

(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (12A:7-507) or of a certificated security (12A:8-306) or is forged or fraudulent or there is fraud in the transaction:

(a) The issuer shall honor the draft on demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (12A:3-302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (12A:7-502) or a bona fide purchaser of a certificated security (12A:8-302); and

(b) In all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.

(3) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

3. N.J.S.12A:8-102 is amended to read as follows:

Definitions and index of definitions.

12A:8-102. Definitions and Index of Definitions.

(1) In this chapter, unless the context otherwise requires:

(a) A "certificated security" is a share, participation, or other interest in property of or an enterprise of the issuer or an obligation of the issuer which is

(i) represented by an instrument issued in bearer or registered form;

(ii) of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and

(iii) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(b) An "uncertificated security" is a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issuer which is

(i) not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) of a type commonly dealt in on securities exchanges or markets; and

(iii) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(c) A "security" is either a certificated or an uncertificated security. If a security is certificated, the terms "security" and "certificated security" may mean either the intangible interest, the instrument representing that interest, or both, as the context requires. A writing that is a certificated security is governed by this chapter and not by chapter 3, even though it also meets the requirements of that chapter. This chapter does not apply to money. If a certificated security has been retained by or surrendered to the issuer or its transfer agent for reasons other than registration of transfer, other temporary purpose, payment, exchange, or acquisition by the issuer, that security shall be treated as an uncertificated security for purposes of this chapter.

(d) A certificated security is in "registered form" if

(i) it specifies a person entitled to the security or the rights it represents, and

(ii) its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security so states.

(e) A certificated security is in "bearer form" if it runs to bearer according to its terms and not by reason of any indorsement.

(2) A "subsequent purchaser" is a person who takes other than by original issue.

(3) A "clearing corporation" is a corporation registered as a "clearing agency" under the federal securities laws or a corporation:

(a) At least 90% of whose capital stock is held by or for one or more organizations, none of which, other than a national securities exchange or association, holds in excess of 20% of the capital stock of the corporation, and each of which is

(i) subject to supervision or regulation pursuant to the provisions of federal or State banking laws or State insurance laws,

(ii) a broker or dealer or investment company registered under the federal securities laws, or

(iii) a national securities exchange or association registered under the federal securities laws;

(b) Any remaining capital stock of which is held by individuals who have purchased it at or prior to the time of their taking office as directors of the corporation and who have purchased only so much of the capital stock as is necessary to permit them to qualify as directors.

(4) A "custodian bank" is a bank or trust company that is supervised and examined by State or federal authority having supervision over banks and is acting as custodian for a clearing corporation.

(5) Other definitions applying to this chapter or to specified subchapters thereof and the sections in which they appear are:

"Adverse claim"	12A:8-302
"Bona fide purchaser"	12A:8-302
"Broker"	12A:8-303
"Debtor"	12A:9-105
"Financial intermediary"	12A:8-313
"Guarantee of the signature"	12A:8-402
"Initial transaction statement"	12A:8-408
"Instruction"	12A:8-308
"Intermediary bank"	12A:4-105
"Issuer"	12A:8-201
"Overissue"	12A:8-104
"Secured party"	12A:9-105
"Security agreement"	12A:9-105

(6) In addition chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

4. N.J.S.12A:8-103 is amended to read as follows:

Issuer's lien.

12A:8-103. Issuer's Lien.

A lien upon a security in favor of an issuer thereof is valid against a purchaser only if:

(a) The security is certificated and the right of the issuer to the lien is noted conspicuously thereon; or

(b) The security is uncertificated and a notation of the right of the issuer to the lien is contained in the initial transaction statements sent to the purchaser or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

5. N.J.S.12A:8-104 is amended to read as follows:

Effect of overissue; "overissue."

12A:8-104. Effect of Overissue; "Overissue."

(1) The provisions of this chapter which validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue; but if:

(a) An identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase the security for him and either to deliver a certificated security or to register the transfer of an uncertificated security to him, against surrender of any certificated security which he holds; or

(b) A security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand.

(2) "Overissue" means the issue of securities in excess of the amount the issuer has corporate power to issue.

6. N.J.S.12A:8-105 is amended to read as follows:

Certificated securities negotiable; statements and instructions not negotiable; presumptions.

12A:8-105. Certificated Securities Negotiable; Statements and Instructions Not Negotiable; Presumptions.

(1) Certificated securities governed by this chapter are negotiable instruments.

(2) Statements (12A:8-408), notices, or the like, sent by the issuer of uncertificated securities and instructions (12A:8-308) are neither negotiable instruments nor certificated securities.

(3) In any action on a security:

(a) Unless specifically denied in the pleadings, each signature on a certificated security, in a necessary indorsement, on an initial transaction statement, or an instruction, is admitted;

(b) If the effectiveness of a signature is put in issue, the burden of establishing it is on the party claiming under the signature, but the signature is presumed to be genuine or authorized;

(c) If signatures on a certificated security are admitted or established, production of the security entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security;

(d) If signatures on an initial transaction statement are admitted or established, the facts stated in the statement are presumed to be true as of the time of its issuance; and

(e) After it is shown that a defense or defect exists, the plaintiff has the burden of establishing that he or some person under whom he claims is a person against whom the defense or defect is ineffective (12A:8-202).

7. N.J.S.12A:8-106 is amended to read as follows:

Applicability.

12A:8-106. Applicability.

The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the validity of a security, the effectiveness of registration by the issuer, and the rights and duties of the issuer with respect to:

(a) Registration of transfer of a certificated security;

(b) Registration of transfer, pledge, or release of an uncertificated security; and

(c) Sending of statements of uncertificated securities.

8. Section 13 of P.L.1964, c.166 (C.12A:8-107) is amended to read as follows:

C.12A:8-107 Securities transferable; action for price.

13. Securities Transferable; Action for Price.

(1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to transfer securities may transfer any certificated security of the specified issue in bearer form or registered in the name of the transferee, or indorsed to him or in blank, or he may transfer an equivalent uncertificated security to the transferee or a person designated by the transferee.

(2) If the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price of:

- (a) Certificated securities accepted by the buyer;
- (b) Uncertificated securities that have been transferred to the buyer or a person designated by the buyer; and
- (c) Other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

9. Section 12A:8-108 is added to the New Jersey Statutes:

Registration of pledge and release of uncertificated securities.

12A:8-108. Registration of Pledge and Release of Uncertificated Securities.

A security interest in an uncertificated security may be evidenced by the registration of pledge to the secured party or a person designated by him. There can be no more than one registered pledge of an uncertificated security at any time. The registered owner of an uncertificated security is the person in whose name the security is registered, even if the security is subject to a registered pledge. The rights of a registered pledgee of an uncertificated security under this chapter are terminated by the registration of release.

10. N.J.S.12A:8-201 is amended to read as follows:

“Issuer.”

12A:8-201. “Issuer.”

(1) With respect to obligations on or defenses to a security, “issuer” includes a person who:

- (a) Places or authorizes the placing of his name on a certificated security (otherwise than as authenticating trustee, registrar, transfer agent, or the like) to evidence that it represents a share, participation, or other interest in his property or in an enterprise, or to evidence his duty to perform an obligation represented by the certificated security;
- (b) Creates shares, participations, or other interests in his prop-

erty or in an enterprise or undertakes obligations, which shares, participations, interests, or obligations are uncertificated securities;

(c) Directly or indirectly creates fractional interests in his rights or property, which fractional interests are represented by certificated securities; or

(d) Becomes responsible for or in place of any other person described as an issuer in this section.

(2) With respect to obligations on or defenses to a security, a guarantor is an issuer to the extent of his guaranty, whether or not his obligation is noted on a certificated security or on statements of uncertificated securities sent pursuant to 12A:8-408.

(3) With respect to registration of transfer, pledge, or release (subchapter 4 of this chapter), "issuer" means a person on whose behalf transfer books are maintained.

11. N.J.S.12A:8-202 is amended to read as follows:

Issuer's responsibility and defenses; notice of defect or defense.

12A:8-202. Issuer's Responsibility and Defenses; Notice of Defect or Defense.

(1) Even against a purchaser for value and without notice, the terms of a security include:

(a) If the security is certificated, those stated on the security;

(b) If the security is uncertificated, those contained in the initial transaction statement sent to the purchaser, or if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or registered pledgee; and

(c) Those made part of the security by reference, on the certificated security or in the initial transaction statement, to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order or the like, to the extent that the terms referred to do not conflict with the terms stated on the certificated security or contained in the statement. A reference under this paragraph does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even though the certificated security or statement expressly states that a person accepting it admits notice.

(2) A certificated security in the hands of a purchaser for value

or an uncertificated security as to which an initial transaction statement has been sent to a purchaser for value, other than a security issued by a government or governmental agency or unit, even though issued with a defect going to its validity, is valid with respect to the purchaser if he is without notice of the particular defect unless the defect involves a violation of constitutional provisions, in which case the security is valid with respect to a subsequent purchaser for value and without notice of the defect. This subsection applies to an issuer that is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(3) Except as provided in the case of certain unauthorized signatures (12A:8-205), lack of genuineness of a certificated security or an initial transaction statement is a complete defense, even against a purchaser for value and without notice.

(4) All other defenses of the issuer of a certificated or uncertificated security, including nondelivery and conditional delivery of a certificated security, are ineffective against a purchaser for value who has taken without notice of the particular defense.

(5) Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement pursuant to which the security is to be issued or distributed.

12. N.J.S.12A:8-203 is amended to read as follows:

Staleness as notice of defects or defenses.

12A:8-203. Staleness as Notice of Defects or Defenses.

(1) After an act or event creating a right to immediate performance of the principal obligation represented by a certificated security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer if:

(a) The act or event is one requiring the payment of money, the delivery of certificated securities, the registration of transfer of un-

certificated securities, or any of these on presentation or surrender of the certificated security, the funds or securities are available on the date set for payment or exchange, and he takes the security more than one year after that date; and

(b) The act or event is not covered by paragraph (a) and he takes the security more than two years after the date set for surrender or presentation or the date on which performance became due.

(2) A call that has been revoked is not within subsection (1).

13. N.J.S.12A:8-204 is amended to read as follows:

Effect of issuer's restrictions on transfer.

12A:8-204. Effect of Issuer's Restrictions on Transfer.

A restriction on transfer of a security imposed by the issuer, even though otherwise lawful, is ineffective against any person without actual knowledge of it unless:

(a) The security is certificated and the restriction is noted conspicuously thereon; or

(b) The security is uncertificated and a notation of the restriction is contained in the initial transaction statement sent to the person or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

14. N.J.S.12A:8-205 is amended to read as follows:

Effect of unauthorized signature on certificated security or initial transaction statement.

12A:8-205. Effect of Unauthorized Signature on Certificated Security or Initial Transaction Statement.

An unauthorized signature placed on a certificated security prior to or in the course of issue or placed on an initial transaction statement is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the lack of authority and the signing has been done by:

(a) An authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security, of similar securities, or of initial transaction statements or the immediate preparation for signing of any of them; or

(b) An employee of the issuer, or of any of the foregoing, entrusted with responsible handling of the security or initial transaction statement.

15. N.J.S.12A:8-206 is amended to read as follows:

Completion or alteration of certificated security or initial transaction statement.

12A:8-206. Completion or Alteration of Certificated Security or Initial Transaction Statement.

(1) If a certificated security contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

(a) Any person may complete it by filling in the blanks as authorized; and

(b) Even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness.

(2) A complete certificated security that has been improperly altered, even though fraudulently, remains enforceable, but only according to its original terms.

(3) If an initial transaction statement contains the signatures necessary to its validity, but is incomplete in any other respect:

(a) Any person may complete it by filling in the blanks as authorized; and

(b) Even though the blanks are incorrectly filled in, the statement as completed is effective in favor of the person to whom it is sent if he purchased the security referred to therein for value and without notice of the incorrectness.

(4) A complete initial transaction statement that has been improperly altered, even though fraudulently, is effective in favor of a purchaser to whom it has been sent, but only according to its original terms.

16. N.J.S.12A:8-207 is amended to read as follows:

Rights and duties of issuer with respect to registered owners and registered pledgees.

12A:8-207. Rights and Duties of Issuer With Respect to Registered Owners and Registered Pledgees.

(1) Prior to due presentment for registration of transfer of a certificated security in registered form, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to

vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(2) Subject to the provisions of subsections (3), (4), and (6), the issuer or indenture trustee may treat the registered owner of an uncertificated security as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(3) The registered owner of an uncertificated security that is subject to a registered pledge is not entitled to registration of transfer prior to the due presentment to the issuer of a release instruction. The exercise of conversion rights with respect to a convertible uncertificated security is a transfer within the meaning of this section.

(4) Upon due presentment of a transfer instruction from the registered pledgee of an uncertificated security, the issuer shall:

(a) Register the transfer of the security to the new owner free of pledge, if the instruction specifies a new owner (who may be the registered pledgee) and does not specify a pledgee;

(b) Register the transfer of the security to the new owner subject to the interest of the existing pledgee, if the instruction specifies a new owner and the existing pledgee; or

(c) Register the release of the security from the existing pledge and register the pledge of the security to the other pledgee, if the instruction specifies the existing owner and another pledgee.

(5) Continuity of perfection of a security interest is not broken by registration of transfer under subsection (4) (b) or by registration of release and pledge under subsection (4) (c), if the security interest is assigned.

(6) If an uncertificated security is subject to a registered pledge:

(a) Any uncertificated securities issued in exchange for or distributed with respect to the pledged security shall be registered subject to the pledge;

(b) Any certificated securities issued in exchange for or distributed with respect to the pledged security shall be delivered to the registered pledgee; and

(c) Any money paid in exchange for or in redemption of part or all of the security shall be paid to the registered pledgee.

(7) Nothing in this chapter shall be construed to affect the liability of the registered owner of a security for calls, assessments, or the like.

17. N.J.S.12A:8-208 is amended to read as follows:

Effect of signature of authenticating trustee, registrar or transfer agent.

12A:8-208. Effect of Signature of Authenticating Trustee, Registrar or Transfer Agent.

(1) A person placing his signature upon a certificated security or an initial transaction statement as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the particular defect, that:

(a) The certificated security or initial transaction statement is genuine;

(b) His own participation in the issue or registration of the transfer, pledge, or release of the security is within his capacity and within the scope of the authority received by him from the issuer; and

(c) He has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person by so placing his signature does not assume responsibility for the validity of the security in other respects.

Title amended.

18. The title of subchapter 3 of chapter 8 of Title 12A of the New Jersey Statutes is amended to read as follows:

TRANSFER

19. N.J.S.12A:8-301 is amended to read as follows:

Rights acquired by purchaser.

12A:8-301. Rights Acquired by Purchaser.

(1) Upon transfer of a security to a purchaser (12A:8-313), the purchaser acquires the rights in the security which his transferor had or had actual authority to convey unless the purchaser's rights are limited by 12A:8-302(4).

(2) A transferee of a limited interest acquires rights only to the extent of the interest transferred. The creation or release of a security

interest in a security is the transfer of a limited interest in that security.

20. N.J.S.12A:8-302 is amended to read as follows:

“Bona fide purchaser”; “adverse claim”; title acquired by bona fide purchaser.

12A:8-302. “Bona Fide Purchaser”; “Adverse Claim”; Title Acquired by Bona Fide Purchaser.

(1) A “bona fide purchaser” is a purchaser for value in good faith and without notice of any adverse claim:

(a) Who takes delivery of a certificated security in bearer form or in registered form, issued or indorsed to him or in blank;

(b) To whom the transfer, pledge, or release of an uncertificated security is registered on the books of the issuer; or

(c) To whom a security is transferred under the provisions of paragraph (c), (d), (i), or (g) of 12A:8-313 (1).

(2) “Adverse claim” includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(3) A bona fide purchaser in addition to acquiring the rights of a purchaser (12A:8-301) also acquires his interest in the security free of any adverse claim.

(4) Notwithstanding 12A:8-301(1), the transferee of a particular certificated security who has been a party to any fraud or illegality affecting the security, or who as a prior holder of that certificated security had notice of an adverse claim, cannot improve his position by taking from a bona fide purchaser.

21. N.J.S.12A:8-303 is amended to read as follows:

“Broker.”

12A:8-303. “Broker.”

“Broker” means a person engaged for all or part of his time in the business of buying and selling securities, who in the transaction concerned acts for, buys a security from, or sells a security to, a customer. Nothing in this chapter determines the capacity in which a person acts for purposes of any other statute or rule to which the person is subject.

22. N.J.S.12A:8-304 is amended to read as follows:

Notice to purchaser of adverse claims.**12A:8-304. Notice to Purchaser of Adverse Claims.**

(1) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) of a certificated security is charged with notice of adverse claims if:

(a) The security, whether in bearer or registered form, has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(b) The security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) to whom the transfer, pledge or release of an uncertificated security is registered is charged with notice of adverse claims as to which the issuer has a duty under 12A:8-403 (4) at the time of registration and which are noted in the initial transaction statement sent to the purchaser or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

(3) The fact that the purchaser (including a broker for the seller or buyer) of a certificated or uncertificated security has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute constructive notice of adverse claims. However, if the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

23. N.J.S.12A:8-305 is amended to read as follows:

Staleness as notice of adverse claims.**12A:8-305. Staleness as Notice of Adverse Claims.**

An act or event that creates a right to immediate performance of the principal obligation represented by a certificated security or sets a date on or after which a certificated security is to be presented or surrendered for redemption or exchange does not itself constitute any notice of adverse claims except in the case of a transfer:

(a) After one year from any date set for presentment or surrender for redemption or exchange; or

(b) After six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

24. N.J.S.12A:8-306 is amended to read as follows:

Warranties on presentment and transfer of certificated securities; warranties of originators of instructions.

12A:8-306. Warranties on Presentment and Transfer of Certificated Securities; Warranties of Originators of Instructions.

(1) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment, or exchange. But, a purchaser for value and without notice of adverse claims who receives a new, reissued, or reregistered certificated security on registration of transfer or receives an initial transaction statement confirming the registration of transfer of an equivalent uncertificated security to him warrants only that he has no knowledge of any unauthorized signature (12A:8-311) in a necessary indorsement.

(2) A person by transferring a certificated security to a purchaser for value warrants only that:

(a) His transfer is effective and rightful;

(b) The security is genuine and has not been materially altered; and

(c) He knows of no fact which might impair the validity of the security.

(3) If a certificated security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against delivery, the intermediary by delivery warrants only his own good faith and authority, even though he has purchased or made advances against the claim to be collected against the delivery.

(4) A pledgee or other holder for security who redelivers a certificated security received, or after payment and on order of the debtor delivers that security to a third person, makes only the warranties of an intermediary under subsection (3).

(5) A person who originates an instruction warrants to the issuer that:

- (a) He is an appropriate person to originate the instruction; and
- (b) At the time the instruction is presented to the issuer he will be entitled to the registration of transfer, pledge, or release.

(6) A person who originates an instruction warrants to any person specially guaranteeing his signature (12A:8-312(3)) that:

- (a) He is an appropriate person to originate the instruction; and
- (b) At the time the instruction is presented to the issuer
 - (i) he will be entitled to the registration of transfer, pledge, or release; and
 - (ii) the transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(7) A person who originates an instruction warrants to a purchaser for value and to any person guaranteeing the instruction (12A:8-312 (6)) that:

- (a) He is an appropriate person to originate the instruction;
- (b) The uncertificated security referred to therein is valid; and
- (c) At the time the instruction is presented to the issuer
 - (i) the transferor will be entitled to the registration of transfer, pledge, or release;
 - (ii) the transfer, pledge or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction; and
 - (iii) the requested transfer, pledge, or release will be rightful.

(8) If a secured party is the registered pledgee or the registered owner of an uncertificated security, a person who originates an instruction of release or transfer to the debtor or, after payment and on order of the debtor, a transfer instruction to a third person, warrants to the debtor or the third person only that he is an appropriate person to originate the instruction and at the time the instruction is presented to the issuer, the transferor will be entitled to the registration of release or transfer. If a transfer instruction to a third person who is a purchaser for value is originated on order of the debtor, the debtor makes to the purchaser the warranties of paragraphs (b), (c) (ii) and (c) (iii) of subsection (7).

(9) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants only that:

- (a) His transfer is effective and rightful; and
- (b) The uncertificated security is valid.

(10) A broker gives to his customer and to the issuer and a purchaser the applicable warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of his customer.

25. N.J.S.12A:8-307 is amended to read as follows:

Effect of delivery without indorsement; right to compel indorsement.

12A:8-307. Effect of Delivery Without Indorsement; Right to Compel Indorsement.

If a certificated security in registered form has been delivered to a purchaser without a necessary indorsement he may become a bona fide purchaser only as of the time the indorsement is supplied; but against the transferor, the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

26. N.J.S.12A:8-308 is amended to read as follows:

Indorsements; instructions.

12A:8-308. Indorsements; Instructions.

(1) An endorsement of a certificated security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or his signature is written without more upon the back of the security.

(2) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(3) An indorsement purporting to be only a part of a certificated security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(4) An "instruction" is an order to the issuer of an uncertificated security requesting that the transfer, pledge, or release from pledge of the uncertificated security specified therein be registered.

(5) An instruction originated by an appropriate person is:

(a) A writing signed by an appropriate person; or

(b) A communication to the issuer in any form agreed upon in a writing signed by the issuer and an appropriate person.

If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed even though it has been completed incorrectly.

(6) "An appropriate person" in subsection (1) means the person specified by the certificated security or by special indorsement to be entitled to the security.

(7) "An appropriate person" in subsection (5) means:

(a) For an instruction to transfer or pledge an uncertificated security which is then not subject to a registered pledge, the registered owner; or

(b) For an instruction to transfer or release an uncertificated security which is then subject to a registered pledge, the registered pledgee.

(8) In addition to the persons designated in subsections (6) and (7), "an appropriate person" in subsections (1) and (5) includes:

(a) If the person designated is described as a fiduciary but is no longer serving in the described capacity, either that person or his successor;

(b) If the persons designated are described as more than one person as fiduciaries and one or more are no longer serving in the described capacity, the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified;

(c) If the person designated is an individual and is without capacity to act by virtue of death, incompetence, infancy, or otherwise, his executor, administrator, guardian, or like fiduciary;

(d) If the persons designated are described as more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign, the survivor or survivors;

(e) A person having power to sign under applicable law or controlling instrument; and

(f) To the extent that the person designated or any of the foregoing persons may act through an agent, his authorized agent.

(9) Unless otherwise agreed, the indorser of a certificated security by his indorsement or the originator of an instruction by his origination assumes no obligation that the security will be honored by the issuer but only the obligations provided in 12A:8-306.

(10) Whether the person signing is appropriate is determined as of the date of signing and an indorsement made by or an instruction originated by him does not become unauthorized for the purposes of this chapter by virtue of any subsequent change of circumstances.

(11) Failure of a fiduciary to comply with a controlling instrument or with the law of the State having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, pledge, or release, does not render his indorsement or an instruction originated by him unauthorized for the purposes of this chapter.

27. N.J.S.12A:8-309 is amended to read as follows:

Effect of indorsement without delivery.

12A:8-309. Effect of Indorsement Without Delivery.

An indorsement of a certificated security, whether special or in blank, does not constitute a transfer until delivery of the certificated security on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the certificated security.

28. N.J.S.12A:8-310 is amended to read as follows:

Indorsement of certificated security in bearer form.

12A:8-310. Indorsement of Certificated Security in Bearer Form. An indorsement of a certificated security in bearer form may give notice of adverse claims (12A:8-304) but does not otherwise affect any right to registration the holder possesses.

29. N.J.S.12A:8-311 is amended to read as follows:

Effect of unauthorized indorsement or instruction.

12A:8-311. Effect of Unauthorized Indorsement or Instruction.

Unless the owner or pledgee has ratified an unauthorized indorsement or instruction or is otherwise precluded from asserting its ineffectiveness:

(a) He may assert its ineffectiveness against the issuer or any purchaser, other than a purchaser for value and without notice of adverse claims, who has in good faith received a new, reissued, or reregistered certificated security on registration of transfer or received an initial transaction statement confirming the registration of transfer, pledge, or release of an equivalent uncertificated security to him; and

(b) An issuer who registers the transfer of a certificated security upon the unauthorized indorsement or who registers the transfer, pledge, or release of an uncertificated security upon the unauthorized instruction is subject to liability for improper registration (12A:8-404).

30. N.J.S.12A:8-312 is amended to read as follows:

Effect of guaranteeing signature, indorsement or instruction.

12A:8-312. Effect of Guaranteeing Signature, Indorsement or Instruction.

(1) Any person guaranteeing a signature of an indorser of a certificated security warrants that at the time of signing:

- (a) The signature was genuine;
- (b) The signer was an appropriate person to indorse (12A:8-308); and
- (c) The signer had legal capacity to sign.

(2) Any person guaranteeing a signature of the originator of an instruction warrants that at the time of signing:

- (a) The signature was genuine;
- (b) The signer was an appropriate person to originate the instruction (12A:8-308) if the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security was, in fact, the registered owner or registered pledgee of the security, as to which fact the signature guarantor makes no warranty;
- (c) The signer had legal capacity to sign; and
- (d) The taxpayer identification number, if any, appearing on the instruction as that of the registered owner or registered pledgee was the taxpayer identification number of the signer or of the owner or pledgee for whom the signer was acting.

(3) Any person specially guaranteeing the signature of the originator of an instruction makes not only the warranties of a signature

guarantor (subsection (2)) but also warrants that at the time the instruction is presented to the issuer:

(a) The person specified in the instruction as the registered owner or registered pledgee of the uncertificated security will be the registered owner or registered pledgee; and

(b) The transfer, pledge, or release of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(4) The guarantor under subsections (1) and (2) or the special guarantor under subsection (3) does not otherwise warrant the rightfulness of the particular transfer, pledge, or release.

(5) Any person guaranteeing an indorsement of a certificated security makes not only the warranties of a signature guarantor under subsection (1) but also warrants the rightfulness of the particular transfer in all respects.

(6) Any person guaranteeing an instruction requesting the transfer, pledge, or release of an uncertificated security makes not only the warranties of a special signature guarantor under subsection (3) but also warrants the rightfulness of the particular transfer, pledge, or release in all respects.

(7) No issuer may require a special guarantee of signature (subsection (3)), a guarantee of indorsement (subsection (5)), or a guarantee of instruction (subsection (6)) as a condition to registration of transfer, pledge, or release.

(8) The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee, and the guarantor is liable to the person for any loss resulting from breach of the warranties.

31. N.J.S.12A:8-313 is amended to read as follows:

When transfer to purchaser occurs; financial intermediary as bona fide purchaser; "financial intermediary."

12A:8-313. When Transfer to Purchaser Occurs; Financial Intermediary as Bona Fide Purchaser; "Financial Intermediary."

(1) Transfer of a security or a limited interest (including a security interest) therein to a purchaser occurs only:

(a) At the time he or a person designated by him acquires possession of a certificated security;

(b) At the time the transfer, pledge, or release of an uncertificated security is registered to him or a person designated by him;

(c) At the time his financial intermediary acquires possession of a certificated security specially indorsed to or issued in the name of the purchaser;

(d) At the time a financial intermediary, not a clearing corporation, sends him confirmation of the purchase and also by book entry or otherwise identifies as belonging to the purchaser

(i) a specific certificated security in the financial intermediary's possession;

(ii) a quantity of securities that constitute or are part of a fungible bulk of certificated securities in the financial intermediary's possession or of uncertificated securities registered in the name of the financial intermediary; or

(iii) a quantity of securities that constitute or are part of a fungible bulk of securities shown on the account of the financial intermediary on the books of another financial intermediary;

(e) With respect to an identified certificated security to be delivered while still in the possession of a third person, not a financial intermediary, at the time that person acknowledges that he holds for the purchaser;

(f) With respect to a specific uncertificated security the pledge or transfer of which has been registered to a third person, not a financial intermediary, at the time that person acknowledges that he holds for the purchaser;

(g) At the time appropriate entries to the account of the purchaser or a person designated by him on the books of a clearing corporation are made under 12A:8-320;

(h) With respect to the transfer of a security interest where the debtor has signed a security agreement containing a description of the security, at the time a written notification, which, in the case of the creation of the security interest, is signed by the debtor (which may be a copy of the security agreement) or which, in the case of the release or assignment of the security interest created pursuant to this paragraph, is signed by the secured party, is received by

(i) a financial intermediary on whose books the interest of the transferor in the security appears;

(ii) a third person, not a financial intermediary, in possession of the security, if it is certificated;

(iii) a third person, not a financial intermediary, who is the registered owner of the security, if it is uncertificated and not subject to a registered pledge; or

(iv) a third person, not a financial intermediary, who is the registered pledgee of the security, if it is uncertificated and subject to a registered pledge;

(i) With respect to the transfer of a security interest where the transferor has signed a security agreement containing a description of the security, at the time new value is given by the secured party; or

(j) With respect to the transfer of a security interest where the secured party is a financial intermediary and the security has already been transferred to the financial intermediary under paragraph (a), (b), (c), (d), or (g), at the time the transferor has signed a security agreement containing a description of the security and value is given by the secured party.

(2) The purchaser is the owner of a security held for him by a financial intermediary, but cannot be a bona fide purchaser of a security so held except in the circumstances specified in paragraphs (c), (d) (i), and (g) of subsection (1). If a security so held is part of a fungible bulk, as in the circumstances specified in paragraphs (d) (ii) and (d) (iii) of subsection (1), the purchaser is the owner of a proportionate property interest in the fungible bulk.

(3) Notice of an adverse claim received by the financial intermediary or by the purchaser after the financial intermediary takes delivery of a certificated security as a holder for value or after the transfer, pledge, or release of an uncertificated security has been registered free of the claim to a financial intermediary who has given value is not effective either as to the financial intermediary or as to the purchaser. However, as between the financial intermediary and the purchaser the purchaser may demand transfer of an equivalent security as to which no notice of adverse claim has been received.

(4) A "financial intermediary" is a bank, broker, clearing corporation or other person (or the nominee of any of them) which in the ordinary course of its business maintains security accounts for its customers and is acting in that capacity. A financial intermediary may have a security interest in securities held in account for its customer.

32. N.J.S.12A:8-314 is amended to read as follows:

Duty to transfer, when completed.

12A:8-314. Duty to Transfer, When Completed.

(1) Unless otherwise agreed, if a sale of a security is made on an exchange or otherwise through brokers:

(a) The selling customer fulfills his duty to transfer at the time he

(i) places a certificated security in the possession of the selling broker or of a person designated by the broker;

(ii) causes an uncertificated security to be registered in the name of the selling broker or a person designated by the broker;

(iii) if requested, causes an acknowledgment to be made to the selling broker that a certificated or uncertificated security is held for the broker; or

(iv) places in the possession of the selling broker or of a person designated by the broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within 30 days thereafter; and

(b) The selling broker, including a correspondent broker acting for a selling customer, fulfills his duty to transfer at the time he

(i) places a certificated security in the possession of the buying broker or a person designated by the buying broker;

(ii) causes an uncertificated security to be registered in the name of the buying broker or a person designated by the buying broker;

(iii) places in the possession of the buying broker or of a person designated by the buying broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within 30 days thereafter; or

(iv) effects clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as provided in this section and unless otherwise agreed, a transferor's duty to transfer a security under a contract of purchase is not fulfilled until he:

(a) Places a certificated security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by the purchaser;

(b) Causes an uncertificated security to be registered in the name of the purchaser or a person designated by the purchaser; or

(c) If the purchaser requests, causes an acknowledgment to be made to the purchaser that a certificated or uncertificated security is held for the purchaser.

(3) Unless made on an exchange, a sale to a broker purchasing for his own account is within subsection (2) and not within subsection (1).

33. N.J.S.12A:8-315 is amended to read as follows:

Action against transferee based upon wrongful transfer.

12A:8-315. Action Against Transferee Based Upon Wrongful Transfer.

(1) Any person against whom the transfer of a security is wrongful for any reason, including his incapacity, as against anyone except a bona fide purchaser, may:

(a) Reclaim possession of the certificated security wrongfully transferred;

(b) Obtain possession of any new certificated security representing all or part of the same rights;

(c) Compel the origination of an instruction to transfer to him or a person designated by him an uncertificated security constituting all or part of the same rights; or

(d) Have damages.

(2) If the transfer is wrongful because of an unauthorized indorsement of a certificated security, the owner may also reclaim or obtain possession of the security or a new certificated security, even from a bona fide purchaser, if the ineffectiveness of the purported indorsement can be asserted against him under the provisions of this chapter on unauthorized indorsements (12A:8-311).

(3) The right to obtain or reclaim possession of a certificated security or to compel the origination of a transfer instruction may be specifically enforced and the transfer of a certificated or uncertificated security enjoined and a certificated security impounded pending the litigation.

34. N.J.S.12A:8-316 is amended to read as follows:

Purchaser's right to requisites for registration of transfer, pledge, or release on books.

12A:8-316. Purchaser's Right to Requisites for Registration of Transfer, Pledge, or Release on Books.

Unless otherwise agreed, the transferor of a certificated security or the transferor, pledgor, or pledgee of an uncertificated security on due demand shall supply his purchaser with any proof of his authority to transfer, pledge, or release or with any other requisite necessary to obtain registration of the transfer, pledge, or release of the security; but if the transfer, pledge, or release is not for value, a transferor, pledgor, or pledgee need not do so unless the purchaser furnishes the necessary expenses. Failure within a reasonable time to comply with a demand made gives the purchaser the right to reject or rescind the transfer, pledge, or release.

35. N.J.S.12A:8-317 is amended to read as follows:

Creditors' rights.

12A:8-317. Creditors' Rights.

(1) Subject to the exceptions in subsections (3) and (4), no attachment or levy upon a certificated security or any share or other interest represented thereby which is outstanding is valid until the security is actually seized by the officer making the attachment or levy, but a certificated security which has been surrendered to the issuer may be reached by a creditor by legal process at the issuer's chief executive office in the United States.

(2) An uncertificated security registered in the name of the debtor may not be reached by a creditor except by legal process at the issuer's chief executive office in the United States.

(3) The interest of a debtor in a certificated security that is in the possession of a secured party not a financial intermediary or in an uncertificated security registered in the name of a secured party not a financial intermediary (or in the name of a nominee of the secured party) may be reached by a creditor by legal process upon the secured party.

(4) The interest of a debtor in a certificated security that is in the possession of or registered in the name of a financial intermediary or in an uncertificated security registered in the name of a financial intermediary may be reached by a creditor by legal process upon the financial intermediary on whose books the interest of the debtor appears.

(5) Unless otherwise provided by law, a creditor's lien upon the interest of a debtor in a security obtained pursuant to subsection (3) or (4) is not a restraint on the transfer of the security, free of the lien, to a third party for new value; but in the event of a transfer, the lien applies to the proceeds of the transfer in the hands of the secured party or financial intermediary, subject to any claims having priority.

(6) A creditor whose debtor is the owner of a security is entitled to aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching the security or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by ordinary legal process.

36. N.J.S.12A:8-318 is amended to read as follows:

No conversion by good faith conduct.

12A:8-318. No Conversion by Good Faith Conduct.

An agent or bailee who in good faith (including observance of reasonable commercial standards if he is in the business of buying, selling, or otherwise dealing with securities) has received certificated securities and sold, pledged, or delivered them or has sold or caused the transfer or pledge of uncertificated securities over which he had control according to the instructions of his principal, is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right so to deal with the securities.

37. N.J.S.12A:8-319 is amended to read as follows:

Statute of frauds.

12A:8-319. Statute of Frauds.

A contract for the sale of securities is not enforceable by way of action or defense unless:

(a) There is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker, sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price;

(b) Delivery of a certificated security or transfer instruction has been accepted, or transfer of an uncertificated security has been registered and the transferee has failed to send written objection to the issuer within 10 days after receipt of the initial transaction statement confirming the registration, or payment has been made, but the contract is enforceable under this provision only to the extent of the delivery, registration, or payment;

(c) Within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within 10 days after its receipt; or

(d) The party against whom enforcement is sought admits in his pleading, testimony, or otherwise in court that a contract was made for the sale of a stated quantity of described securities at a defined or stated price.

38. Section 18 of P.L.1964, c.166 (C.12A:8-320) is amended to read as follows:

C.12A:8-320 Transfer or pledge within central depository system.

18. Transfer or Pledge within Central Depository System.

(1) In addition to other methods, a transfer, pledge, or release of a security or any interest therein may be effected by the making of appropriate entries on the books of a clearing corporation reducing the account of the transferor, pledgor, or pledgee and increasing the account of the transferee, pledgee, or pledgor by the amount of the obligation, or the number of shares or rights transferred, pledged, or released, if the security is shown on the account of a transferor, pledgor, or pledgee on the books of the clearing corporation; is subject to the control of the clearing corporation; and

(a) If certificated,

(i) is in the custody of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them; and

(ii) is in bearer form or indorsed in blank by an appropriate person or registered in the name of the clearing corporation, a custodian bank, or a nominee of any of them; or

(b) If uncertificated, is registered in the name of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them.

(2) Under this section entries may be made with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number, or the like, and, in appropriate cases, may be on a net basis taking into account other transfers, pledges, or releases of the same security.

(3) A transfer under this section is effective (12A:8-313) and the

purchaser acquires the rights of the transferor (12A:8-301). A pledge or release under this section is the transfer of a limited interest. If a pledge or the creation of a security interest is intended, the security interest is perfected at the time when both value is given by the pledgee, and the appropriate entries are made (12A:8-321). A transferee or pledgee under this section may be a bona fide purchaser (12A:8-302).

(4) A transfer or pledge under this section is not a registration of transfer under subchapter 4.

(5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries or the liabilities or obligations of the clearing corporation to any person adversely affected thereby.

39. Section 12A:8-321 is added to the New Jersey Statutes:

Enforceability, attachment, perfection and termination of security, interests.

12A:8-321. Enforceability, Attachment, Perfection and Termination of Security, Interests.

(1) A security interest in a security is enforceable and can attach only if it is transferred to the secured party or a person designated by him pursuant to a provision of 12A:8-313 (1).

(2) A security interest so transferred pursuant to agreement by a transferor who has rights in the security to a transferee who has given value is a perfected security interest, but a security interest that has been transferred solely under paragraph (i) of 12A:8-313 (1) becomes unperfected after 21 days unless, within that time, the requirements for transfer under any other provision of 12A:8-313 (1) are satisfied.

(3) A security interest in a security is subject to the provisions of chapter 9, but:

(a) No filing is required to perfect the security interest; and

(b) No written security agreement signed by the debtor is necessary to make the security interest enforceable, except as provided in paragraph (h), (i), or (j) of 12A:8-313 (1). The secured party has the rights and duties provided under 12A:9-207, to the extent they are applicable, whether or not the security is certificated, and, if certificated, whether or not it is in his possession.

(4) Unless otherwise agreed, a security interest in a security is terminated by transfer to the debtor or a person designated by him

pursuant to a provision of 12A:8-313 (1). If a security is thus transferred, the security interest, if not terminated, becomes unperfected unless the security is certificated and is delivered to the debtor for the purpose of ultimate sale or exchange or presentation, collection, renewal, or registration of transfer. In that case, the security interest becomes unperfected after 21 days unless, within that time, the security (or securities for which it has been exchanged) is transferred to the secured party or a person designated by him pursuant to a provision of 12A:8-313 (1).

40. N.J.S.12A:8-401 is amended to read as follows:

Duty of issuer to register transfer, pledge, or release.

12A:8-401. Duty of Issuer to Register Transfer, Pledge, or Release.

(1) If a certificated security in registered form is presented to the issuer with a request to register transfer or an instruction is presented to the issuer with a request to register transfer, pledge, or release, the issuer shall register the transfer, pledge, or release as requested if:

(a) The security is indorsed or the instruction was originated by the appropriate person or persons (12A:8-308);

(b) Reasonable assurance is given that those indorsements or instructions are genuine and effective (12A:8-402);

(c) The issuer has no duty as to adverse claims or has discharged the duty, (12A:8-403);

(d) Any applicable law relating to the collection of taxes has been complied with; and

(e) The transfer, pledge, or release is in fact rightful or is to a bona fide purchaser.

(2) If an issuer is under a duty to register a transfer, pledge, or release of a security, the issuer is also liable to the person presenting a certificated security or an instruction for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer, pledge, or release.

41. N.J.S.12A:8-402 is amended to read as follows:

Assurance that indorsements and instructions are effective.

12A:8-402. Assurance that Indorsements and Instructions Are Effective.

(1) The issuer may require the following assurance that each

necessary indorsement of a certificated security or each instruction (12A:8-308) is genuine and effective:

(a) In all cases, a guarantee of the signature (12A:8-312 (1) or (2)) of the person indorsing a certificated security or originating an instruction including, in the case of an instruction, a warranty of the taxpayer identification number or, in the absence thereof, other reasonable assurance of identity;

(b) If the indorsement is made or the instruction is originated by an agent, appropriate assurance of authority to sign;

(c) If the indorsement is made or the instruction is originated by a fiduciary, appropriate evidence of appointment or incumbency;

(d) If there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and

(e) If the indorsement is made or the instruction is originated by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subsection (1) means, a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility if they are not manifestly unreasonable.

(3) "Appropriate evidence of appointment or incumbency" in subsection (1) means:

(a) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within 60 days before the date of presentation for transfer, pledge, or release; or

(b) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of that document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to the evidence if they are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph (b) except to the extent that the contents relate directly to the appointment or incumbency.

(4) The issuer may elect to require reasonable assurance beyond that specified in this section, but if it does so and, for a purpose other than that specified in subsection (3)(b), both requires and obtains

a copy of a will, trust, indenture, articles of copartnership, bylaws, or other controlling instrument, it is charged with notice of all matters contained therein affecting the transfer, pledge, or release.

42. N.J.S.12A:8-403 is amended to read as follows:

Issuer's duty as to adverse claims.

12A:8-403. Issuer's Duty as to Adverse Claims.

(1) An issuer to whom a certificated security is presented for registration shall inquire into adverse claims if:

(a) A written notification of an adverse claim is received at a time and in a manner affording the issuer a reasonable opportunity to act on it prior to the issuance of a new, reissued, or reregistered certificated security, and the notification identifies the claimant, the registered owner, and the issue of which the security is a part, and provides an address for communications directed to the claimant; or

(b) The issuer is charged with notice of an adverse claim from a controlling instrument it has elected to require under 12A:8-402(4).

(2) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or, if there be no such address, at his residence or regular place of business that the certificated security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within 30 days from the date of mailing the notification, either:

(a) An appropriate restraining order, injunction, or other process issues from a court of competent jurisdiction; or

(b) There is filed with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved from any loss it or they may suffer by complying with the adverse claim.

(3) Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under 12A:8-402 (4) or receives notification of an adverse claim under subsection (1), if a certificated security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular:

(a) An issuer registering a certificated security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of

the fiduciary relationship; and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;

(b) An issuer registering transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(c) The issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or to his nominee.

(4) An issuer is under no duty as to adverse claims with respect to an uncertificated security except:

(a) Claims embodied in a restraining order, injunction, or other legal process served upon the issuer if the process was served at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5);

(b) Claims of which the issuer has received a written notification from the registered owner or the registered pledgee if the notification was received at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5);

(c) Claims (including restrictions on transfer not imposed by the issuer) to which the registration of transfer to the present registered owner was subject and were so noted in the initial transaction statement sent to him; and

(d) Claims as to which an issuer is charged with notice from a controlling instrument it has elected to require under 12A:8-402 (4).

(5) If the issuer of an uncertificated security is under a duty as to an adverse claim, he discharges that duty by:

(a) Including a notation of the claim in any statements sent with respect to the security under 12A:8-408 (3), (6), and (7); and

(b) Refusing to register the transfer or pledge of the security unless the nature of the claim does not preclude transfer or pledge subject thereto.

(6) If the transfer or pledge of the security is registered subject to an adverse claim, a notation of the claim must be included in the initial transaction statement and all subsequent statements sent to the transferee and pledgee under 12A:8-408.

(7) Notwithstanding subsections (4) and (5), if an uncertificated security was subject to a registered pledge at the time the issuer first came under a duty as to a particular adverse claim, the issuer has no duty as to that claim if transfer of the security is requested by the registered pledgee or an appropriate person acting for the registered pledgee unless:

(a) The claim was embodied in legal process which expressly provides otherwise;

(b) The claim was asserted in a written notification from the registered pledgee;

(c) The claim was one as to which the issuer was charged with notice from a controlling instrument it required under 12A:8-402 (4) in connection with the pledgee's request for transfer; or

(d) The transfer requested is to the registered owner.

43. N.J.S.12A:8-404 is amended to read as follows:

Liability and non-liability for registration.

12A:8-404. Liability and Non-Liability for Registration.

(1) Except as provided in any law relating to the collection of taxes, the issuer is not liable to the owner, pledgee, or any other person suffering loss as a result of the registration of a transfer, pledge, or release of a security if:

(a) There were on or with a certificated security the necessary indorsements or the issuer had received an instruction originated by an appropriate person (12A:8-308); and

(b) The issuer had no duty as to adverse claims or has discharged the duty (12A:8-403).

(2) If an issuer has registered a transfer of a certificated security to a person not entitled to it, the issuer on demand shall deliver a like security to the true owner unless:

(a) The registration was pursuant to subsection (1);

(b) The owner is precluded from asserting any claim for registering the transfer under 12A:8-405 (1); or

(c) The delivery would result in overissue, in which case the issuer's liability is governed by 12A:8-104.

(3) If an issuer has improperly registered a transfer, pledge, or release of an uncertificated security, the issuer on demand from the injured party shall restore the records as to the injured party to the condition that would have obtained if the improper registration had not been made unless:

(a) The registration was pursuant to subsection (1); or

(b) The registration would result in overissue, in which case the issuer's liability is governed by 12A:8-104.

44. N.J.S.12A:8-405 is amended to read as follows:

Lost, destroyed, and stolen certificated securities.

12A:8-405. Lost, Destroyed, and Stolen Certificated Securities.

(1) If a certificated security has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after he has notice of it and the issuer registers a transfer of the security before receiving notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under 12A:8-404 or any claim to a new security under this section.

(2) If the owner of a certificated security claims that the security has been lost, destroyed, or wrongfully taken, the issuer shall issue a new certificated security or, at the option of the issuer, an equivalent uncertificated security in place of the original security if the owner:

(a) So requests before the issuer has notice that the security has been acquired by a bona fide purchaser;

(b) Files with the issuer a sufficient indemnity bond; and

(c) Satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of a new certificated or uncertificated security, a bona fide purchaser of the original certificated security presents it for registration of transfer, the issuer shall register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by 12A:8-104. In addition to any rights on the indemnity bond, the issuer may recover the new certificated security from the person to whom it was issued or any person taking

under him except a bona fide purchaser or may cancel the uncertificated security unless a bona fide purchaser or any person taking under a bona fide purchaser is then the registered owner or registered pledgee thereof.

45. N.J.S.12A:8-406 is amended to read as follows:

Duty of authenticating trustee, transfer agent or registrar.

12A:8-406. Duty of Authenticating Trustee, Transfer Agent or Registrar.

(1) If a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its certificated securities or in the registration of transfers, pledges, and releases of its uncertificated securities, in the issue of new securities, or in the cancellation of surrendered securities:

(a) He is under a duty to the issuer to exercise good faith and due diligence in performing his functions; and

(b) With regard to the particular functions he performs, he has the same obligation to the holder or owner of a certificated security or to the owner or pledgee of an uncertificated security and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar or other agent is notice to the issuer with respect to the functions performed by the agent.

46. Section 12A:8-407 is added to the New Jersey Statutes:

Exchangeability of securities.

12A:8-407. Exchangeability of Securities.

(1) No issuer is subject to the requirements of this section unless it regularly maintains a system for issuing the class of securities involved under which both certificated and uncertificated securities are regularly issued to the category of owners, which includes the person in whose name the new security is to be registered.

(2) Upon surrender of a certificated security with all necessary indorsements and presentation of a written request by the person surrendering the security, the issuer, if he has no duty as to adverse claims or has discharged the duty (12A:8-403), shall issue to the person or a person designated by him an equivalent uncertificated security subject to all liens, restrictions, and claims that were noted on the certificated security.

(3) Upon receipt of a transfer instruction originated by an appropriate person who so requests, the issuer of an uncertificated security shall cancel the uncertificated security and issue an equivalent certificated security on which shall be noted conspicuously any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under 12A:8-403 (4)) to which the uncertificated security was subject. The certificated security shall be registered in the name of and delivered to:

(a) The registered owner, if the uncertificated security was not subject to a registered pledge; or

(b) The registered pledgee, if the uncertificated security was subject to a registered pledge.

47. Section 12A:8-408 is added to the New Jersey Statutes:

Statements of uncertificated securities.

12A:8-408. Statements of Uncertificated Securities.

(1) Within two business days after the transfer of an uncertificated security has been registered, the issuer shall send to the new registered owner and, if the security has been transferred subject to a registered pledge, to the registered pledgee a written statement containing:

(a) A description of the issue of which the uncertificated security is a part;

(b) The number of shares or units transferred;

(c) The name and address and any taxpayer identification number of the new registered owner and, if the security has been transferred subject to a registered pledge, the name and address and any taxpayer identification number of the registered pledgee;

(d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under 12A:8-403 (4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) The date the transfer was registered.

(2) Within two business days after the pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the registered pledgee a written statement containing:

(a) A description of the issue of which the uncertificated security is a part;

(b) The number of shares or units pledged;

(c) The name and address and any taxpayer identification number of the registered owner and the registered pledgee;

(d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under 12A:8-403 (4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) The date the pledge was registered.

(3) Within two business days after the release from pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the pledgee whose interest was released a written statement containing:

(a) A description the issue of which the uncertificated security is a part;

(b) The number of shares or units released from pledge;

(c) The name and address and any taxpayer identification number of the registered owner and the pledgee whose interest was released;

(d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under 12A:8-403 (4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) The date the release was registered.

(4) An "initial transaction statement" is the statement sent to:

(a) The new registered owner and, if applicable, to the registered pledgee pursuant to subsection (1);

(b) The registered pledgee pursuant to subsection (2); or

(c) The registered owner pursuant to subsection (3). Each initial transaction statement shall be signed by or on behalf of the issuer and shall be identified as "Initial Transaction Statement."

(5) Within two business days after the transfer of an uncertificated security has been registered, the issuer shall send to the former registered owner and the former registered pledgee, if any, a written statement containing:

- (a) A description of the issue of which the uncertificated security is a part;
- (b) The number of shares or units transferred;
- (c) The name and address and any taxpayer identification number of the former registered owner and of any former registered pledgee; and
- (d) The date the transfer was registered.

(6) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered owner, the issuer shall send to the registered owner of each uncertificated security a dated written statement containing:

- (a) A description of the issue of which the uncertificated security is a part;
- (b) The name and address and any taxpayer identification number of the registered owner;
- (c) The number of shares or units of the uncertificated security registered in the name of the registered owner on the date of the statement;
- (d) The name and address and any taxpayer identification number of any registered pledgee and the number of shares or units subject to the pledge; and
- (e) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under 12A:8-403 (4)) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(7) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered pledgee, the issuer shall send to the registered pledgee of each uncertificated security a dated written statement containing:

- (a) A description of the issue of which the uncertificated security is a part;

(b) The name and address and any taxpayer identification number of the registered owner;

(c) The name and address and any taxpayer identification number of the registered pledgee;

(d) The number of shares or units subject to the pledge; and

(e) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under 12A:8-403 (4)) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(8) If the issuer sends the statements described in subsections (6) and (7) at periodic intervals no less frequent than quarterly, the issuer is not obliged to send additional statements upon request unless the owner or pledgee requesting them pays to the issuer the reasonable cost of furnishing them.

(9) Each statement sent pursuant to this section shall bear a conspicuous legend reading substantially as follows: "This statement is merely a record of the rights of the addressee as of the time of its issuance. Delivery of this statement, of itself, confers no rights on the recipient. This statement is neither a negotiable instrument nor a security."

48. N.J.S.12A:9-103 is amended to read as follows:

Perfection of security interests in multiple state transactions.

12A:9-103. Perfection of Security Interests in Multiple State Transactions.

(1) Documents, instruments and ordinary goods.

(a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5).

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time

that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until 30 days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the 30-day period.

(d) When collateral is brought into and kept in this State while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by subchapter 3 of this chapter to perfect the security interest,

(i) if the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this State, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) if the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

(iii) for the purpose of priority over a buyer of consumer goods (subsection (2) of 12A:9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(2) Certificate of title.

(a) This subsection applies to goods covered by a certificate of title issued under a statute of this State or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this State and thereafter covered by a certificate of title issued by this State is subject to the rules stated in paragraph (d) of subsection (1).

(d) If goods are brought into this State while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this State and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without the knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods.

(a) This subsection applies to accounts (other than an account described in subsection (5) on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for

money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper.

The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals.

Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) Uncertificated securities.

The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the perfection and the effect of perfection or nonperfection of a security interest in uncertificated securities.

49. N.J.S.12A:9-105 is amended to read as follows:

Definitions and index of definitions.

12A:9-105. Definitions and Index of Definitions.

(1) In this chapter unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the chapter dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) "Document" means document of title as defined in the general definitions of chapter 1 (12A:1-201) , and a receipt of the kind described in subsection (2) of 12A:7-201;

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (12A:9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like (including oil and

gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops;

(i) "Instrument" means a negotiable instrument (defined in 12A:3-104), or a certificated security (defined in 12A:8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) "Security agreement" means an agreement which creates or provides for a security interest;

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(2) Other definitions applying to this chapter and the sections in which they appear are:

"Account." 12A:9-106.

"Attach." 12A:9-203.

"Construction mortgage." 12A:9-313 (1).

"Consumer goods." 12A:9-109 (1).

"Equipment." 12A:9-109 (2).

"Farm products." 12A:9-109 (3).

"Fixture." 12A:9-313.

"Fixture filing." 12A:9-313.

"General intangibles." 12A:9-106.

"Inventory." 12A:9-109 (4).

"Lien creditor." 12A:9-301 (3).

"Proceeds." 12A:9-306 (1).

"Purchase money security interest." 12A:9-107.

"United States." 12A:9-103 (3).

(3) The following definitions in other chapters apply to this chapter:

“Check.” 12A:3-104.

“Contract for sale.” 12A:2-106.

“Holder in due course.” 12A:3-302.

“Note.” 12A:3-104.

“Sale.” 12A:2-106.

(4) In addition chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

50. N.J.S.12A:9-203 is amended to read as follows:

Attachment and enforceability of security interest; proceeds; formal requisites.

12A:9-203. Attachment and Enforceability of Security Interest; Proceeds; Formal Requisites.

(1) Subject to the provisions of 12A:4-208 on the security interest of a collecting bank, 12A:8-321 on security interests in securities and 12A:9-113 on a security interest arising under the chapter on sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) The collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;

(b) Value has been given; and

(c) The debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by 12A:9-306.

(4) A transaction, although subject to this chapter, is also subject to the provisions of those statutes set forth as saved from repeal by this subtitle in section 12A:10-104, and in case of conflict between the provisions of this chapter and any such statute so saved from repeal, the provisions of such statute control. Failure to comply with

any such applicable statute has only the effect which is specified therein.

(5) In case of conflict between this chapter and the provisions of "The Credit Union Act of 1984," P.L.1984, c.171, ss.2 to 46 (C.17:13-79 to C.17:13-124), concerning a transaction subject to this chapter and also subject to the provisions of "The Credit Union Act of 1984," the provisions of "The Credit Union Act of 1984" shall control.

51. N.J.S.12A:9-302 is amended to read as follows:

When filing is required to perfect security interests; security interests to which filing provisions of this chapter do not apply.

12A:9-302. When Filing Is Required to Perfect Security Interests; Security Interests to Which Filing Provisions of This Chapter Do Not Apply.

(1) A financing statement shall be filed to perfect all security interests except the following:

(a) A security interest in collateral in possession of the secured party under 12A:9-305;

(b) A security interest temporarily perfected in instruments or documents without delivery under 12A:9-304 or in proceeds for a 10-day period under 12A:9-306;

(c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in 12A:9-313;

(e) An assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) A security interest of a collecting bank (12A:4-208) or in securities (12A:8-321) or arising under the chapter on sales (see 12A:9-113) or covered in subsection (3) of this section;

(g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this chapter is required in order to continue the perfected

status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this chapter is not necessary or effective to perfect a security interest in property subject to:

(a) A statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this chapter for filing of the security interest; or

(b) The following statutes of this State:

R.S.39:10-1 to R.S.39:10-9 both inclusive;
P.L.1971, c.311 (C.39:10-9.1 and C.39:10-9.2);
R.S.39:10-10 to R.S.39:10-16 both inclusive;
R.S.39:10-18 to R.S.39:10-25 both inclusive;

but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this chapter (subchapter 4) apply to a security interest in that collateral created by him as debtor; or

(c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of 12A:9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this chapter, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in 12A:9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this chapter.

52. N.J.S.12A:9-304 is amended to read as follows:

Perfection of security interest in instruments, documents, and goods covered by documents; perfection by permissive filing; temporary perfection without filing or transfer of possession.

12A:9-304. Perfection of Security Interest In Instruments, Documents, and Goods Covered by Documents; Perfection by Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession.

(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than certificated securities or instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of 12A:9-306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments (other than certificated securities) or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument (other than a certificated security), a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor:

(a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subsection (3) of 12A:9-312; or

(b) Delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, or registration of transfer.

(6) After the 21-day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this chapter.

53. N.J.S.12A:9-305 is amended to read as follows:

When possession by secured party perfects security interest without filing.

12A:9-305. When Possession by Secured Party Perfects Security Interest Without Filing.

A security interest in letters of credit and advices of credit (subsection (2) (a) of 12A:5-116), goods, instruments (other than certificated securities), money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this chapter. The security interest may be otherwise perfected as provided in this chapter before or after the period of possession by the secured party.

54. N.J.S.12A:9-309 is amended to read as follows:

Protection of purchasers of instruments, documents and securities.

12A:9-309. Protection of Purchasers of Instruments, Documents and Securities.

Nothing in this chapter limits the rights of a holder in due course of a negotiable instrument (12A:3-302) or a holder to whom a negotiable document of title has been duly negotiated (12A:7-501) or a bona fide purchaser of a security (12A:8-302) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this chapter does not constitute notice of the security interest to such holders or purchasers.

55. N.J.S.12A:9-312 is amended to read as follows:

Priorities among conflicting security interests in the same collateral.

12A:9-312. Priorities Among Conflicting Security Interests in the Same Collateral.

(1) The rules of priority stated in other sections of this subchapter and in the following sections shall govern when applicable: 12A:4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; 12A:9-103 on security interests related to other jurisdictions; 12A:9-114 on consignments.

(2) (Deleted by amendment, P.L.1962, c.203, s.4.)

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if:

(a) The purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the 21-day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of 12A:9-304); and

(c) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) The notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within 10 days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under 12A:8-321 on securities, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances, made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

56. This act shall take effect immediately.

Approved January 16, 1990.

CHAPTER 349

AN ACT appropriating \$28,064,000 from the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, to assist projects for cultural center development.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. There is appropriated to the State Council on the Arts in the Department of State from the "Cultural Centers and Historic Preservation Fund" created pursuant to section 20 of P.L.1987, c.265, the sum of \$28,064,000 for the purpose of awarding grants to assist projects of cultural center development, which sum shall include administrative costs. The following projects are eligible for funding from this appropriation up to amounts listed herein and subject to grant awards:

Newark Museum	\$2,107,000
Newark Symphony Hall	4,718,900
New Brunswick Cultural Center	4,884,600
plus an additional	1,115,400
pending revised and approved plans for a total of \$6,000,000	
McCarter Theatre	4,487,000
South Jersey Regional Theatre	1,622,500
Morris Museum	2,796,300
Appel Farm	100,000

John Harms Center for the Arts	339,800
plus up to	25,000
in additional funds, not to exceed 50% of the cost of more fully developed building master plans for a total of up to \$364,800	
Paper Mill Playhouse	867,500
Whole Theatre	5,000,000
TOTAL	\$28,064,000

2. The State Council on the Arts shall award grants on a competitive basis for cultural center development in the State based upon the criteria established pursuant to section 4 of P.L.1987, c.265.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1987, c.265.

4. This act shall take effect immediately.

Approved January 16, 1990.

CHAPTER 350

AN ACT concerning the taxation of certain types of tangible personal property under the sales and use tax, amending P.L.1966, c.30, and P.L.1989, c.123, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read as follows:

C.54:32B-6 Imposition of compensating use tax.

6. Imposition of compensating use tax. Unless property or services have already been or will be subject to the sales tax under this act, there is hereby imposed on and there shall be paid by every person a use tax for the use within this State of 3% on and after July 1, 1966 and continuing through February 28, 1970, and of 5% on and after March 1, 1970 and continuing through January 2, 1983, and of 6% on and after January 3, 1983, except as otherwise exempted under this act, (A) of any tangible personal property purchased at retail, (B) of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal

property are offered for sale by him in the regular course of business, or if items of the same kind of tangible personal property are not offered for sale by him in the regular course of business and are used as such or incorporated into a structure, building or real property, and (C) of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in subsection (b)(1) and (2) of section 3 have been performed. For purposes of clause (A) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for such property or for the use of such property, but excluding any credit for property of the same kind accepted in part payment and intended for resale, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For the purposes of clause (B) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the price at which items of the same kind of tangible personal property are offered for sale by the user, or if items of the same kind of tangible personal property are not offered for sale by the user in the regular course of business and are used as such or incorporated into a structure, building or real property the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled by the user into the tangible personal property the use of which is subject to use tax pursuant to this section, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him. For purposes of clause (C) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser.

2. Section 10 of P.L.1989, c.123 is amended to read as follows:

10. (a) Sections 1 through 9 of P.L.1989, c.123 shall apply to sales of tangible personal property for lease if the delivery of any of the property which was the subject matter of the agreement was completed on or after June 26, 1989. For the purpose of this subsection, if the lessor does not take delivery of the property, delivery to the lessee shall be deemed delivery to the lessor.

(b) Notwithstanding any provisions of P.L.1989, c.123 to the contrary, and except as provided in subsection (c) of this section, lease agreements for tangible personal property taxable under the sales and use tax act in effect before June 26, 1989, and under which delivery to the lessee of all the property was completed before that date, shall be subject to sales or use tax on the basis of and at the time that the periodic lease payments and other charges or payments are made by the lessee under the agreement, including but not limited to purchase options and excess usage charges.

(c) Upon renewal of a lease agreement which is subject to tax as provided under subsection (b) of this section, sales or use tax shall be due from the lessor either, at the election of the lessor, (1) on the purchase price of the property, provided however, that credit shall be granted for the tax paid with respect to the lease of such property in New Jersey prior to that renewal, or (2) on the amount of the total of the lease payments attributable to the lease of such property.

If the lessor of tangible personal property purchased for lease elects to pay tax as provided in paragraph (2) of this subsection, any and each subsequent lease or rental is a retail sale, and a subsequent sale of such property is a retail sale.

3. There is appropriated from the General Fund \$750,000 to the Division of Taxation in the Department of the Treasury to effectuate the purposes of P.L.1989, c.123.

4. This act shall take effect immediately and section 1 shall apply to uses of tangible personal property delivered into the State on and after January 1, 1985 and section 2 shall be retroactive to June 26, 1989.

Approved January 16, 1990.

CHAPTER 351

AN ACT concerning immunity from civil suits for members of local emergency planning committees and supplementing Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

C.2A:62A-15 Immunity to local emergency planning committee members.

1. Notwithstanding any other provision of law to the contrary, no person serving as a member of a local emergency planning committee organized pursuant to the "Super Fund Amendments and Reauthorization Act of 1986," Pub.L.99-499 (42 U.S.C. § 9601 et seq.) and Executive Order No. 161 of 1986 shall be liable:

a. For damages resulting from the exercise of judgment or discretion unless the actions evidence a reckless disregard for the duties imposed by the position; or

b. For damages resulting from acts of commission or omission arising out of and in the course of rendering volunteer service or assistance; provided, however, that nothing in this subsection shall be deemed to grant immunity to any person causing damage by his willful, wanton or grossly negligent act of commission or omission, nor for any damage caused to any person as the result of the negligent operation of a motor vehicle.

2. This act shall take effect immediately.

Approved January 16, 1990.

JOINT RESOLUTIONS

Joint Resolutions

JOINT RESOLUTION No. 1

A JOINT RESOLUTION designating the month of March 1989 as "Eye Donor Month" in New Jersey, and providing for a proclamation thereof by the Governor.

WHEREAS, Eye banks throughout the United States provide an invaluable service to our citizens by collecting, preserving and distributing, free of charge, corneal tissue for sight restoration; and

WHEREAS, Many people live in darkness and discouragement waiting for scientists to develop a new procedure or drug which would result in the lifting of the ever present curtain of blindness which prevents them from seeing and from leading normal lives; and

WHEREAS, Through the modern miracles of ophthalmic surgery, certain types of blindness and impaired vision can be cured or greatly improved; and

WHEREAS, Corneal transplant surgery, one of the most effective procedures for restoring sight, is only possible because some compassionate person donated his eyes to an eye bank in order to turn someone's darkness into light; and

WHEREAS, There is an ever present need for corneal tissue; and

WHEREAS, A donor has a glorious triumph over physical death because his eyes continue to live and because his humanitarian act enables a living person to regain lost vision which is a precious treasure; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. The month of March 1989 is formally designated "Eye Donor Month" in the State of New Jersey.

2. The Governor, by appropriate proclamation, is requested to proclaim the month of March 1989 as "Eye Donor Month."

3. This joint resolution shall take effect immediately.

Approved March 14, 1989.

JOINT RESOLUTION No. 2

A JOINT RESOLUTION designating the first week of July as "Literacy Awareness Week" in New Jersey.

WHEREAS, Literacy is a necessary tool for survival and 35 million Americans today read at a level which is below that which is necessary for survival; and

WHEREAS, There are 25 million adults in the United States who cannot read, whose intellectual resources are left untapped, and who are unable to offer their full contribution to society, while the annual cost of illiteracy to society has been estimated at \$6,000,000.00; and

WHEREAS, There is a direct correlation between the number of illiterate adults who are unable to perform to the standard necessary for available employment and the money allocated to child welfare cost and unemployment compensation; and

WHEREAS, Although most illiterate adults are white, illiteracy is disproportionately high among black and Hispanic adults, compounding problems of economic and social discrimination; and

WHEREAS, 85% of the juveniles who appear in criminal court are functionally illiterate and the prison population represents the single highest concentration of adult illiteracy; and

WHEREAS, Federal, State, municipal, and private literacy programs have only been able to reach 4% of the total illiterate population; and

WHEREAS, It is vital to call attention to the problem of illiteracy, to help others understand the severity of this problem and its detrimental effects on our society, and to reach those who are unaware of the free service and help available for illiteracy; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

C.36:2-12 Literacy Awareness Week.

1. That the first full week of July of each year shall be proclaimed as "Literacy Awareness Week" in New Jersey.

2. All citizens of the State are encouraged to support and participate in the month's events and activities.

3. This joint resolution shall take effect immediately.

Approved April 14, 1989.

JOINT RESOLUTION No. 3

A JOINT RESOLUTION designating the week of May 14-20, 1989 as "Special Education Week" in the State of New Jersey.

WHEREAS, Approximately 165,000 children receive special education instruction in New Jersey's public and private schools; and

WHEREAS, Some 6,700 special needs children are enrolled in preschool and early intervention programs in this State; and

WHEREAS, Thousands of special needs adults receive job counselling, housing assistance and continuing education instruction in New Jersey; and

WHEREAS, Thousands of parents, teachers, child study team members and school administrators give generously of their time and energy to support the learning needs of special education students; and

WHEREAS, The public school districts and the private schools of New Jersey make a major contribution to the public welfare by preparing thousands of exceptional persons to participate as citizens of this State and as members of society; and

WHEREAS, Local public school board members, as well as the boards of directors and trustees of the private schools and agencies for the handicapped in the State, serve as advocates of the rights of exceptional citizens; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey*:

1. The week of May 14-20, 1989 is proclaimed as "Special Education Week" in the State of New Jersey.

2. The citizens of this State are urged to recognize the contribution of public school board members, schools and agencies for the handicapped, educators, parents and the students themselves, and to commend them for their dedication to ensuring quality education for the exceptional citizens of this State.

3. This joint resolution shall take effect immediately.

Approved May 18, 1989.

JOINT RESOLUTION No. 4

A JOINT RESOLUTION pursuant to P.L.1960, c.52 proposing a new hearsay rule concerning statements by a child relating to a sexual offense.

WHEREAS, The Supreme Court of New Jersey unanimously decided in *State v. D.R.* on February 9, 1988 that it was inappropriate for the Judiciary to modify or adopt rules of evidence without reference to the Evidence Act of 1960 in the particular factual circumstances of the case given the serious and substantial effect of creating a new hearsay exception; and

WHEREAS, Section 38 of P.L.1960, c.52 (C.2A:84A-38) provides a procedure for the adoption of a particular rule without the necessity for presentation at the Judicial Conference so that the rule's adoption by the court may be accelerated; and

WHEREAS, The Supreme Court of New Jersey in *State v. D.R.* appended proposed amendments to the Rules of Evidence creating a hearsay exception for statements by a child relating to an alleged sexual offense; and

WHEREAS, The Supreme Court of New Jersey did cause true copies of the decision in *State v. D.R.* and the appended proposed rules to be delivered to the President of the Senate, the Speaker of the General Assembly and the Governor of the State of New Jersey; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. Pursuant to section 38 of P.L.1960, c.52 (C.2A:84A-38), the Supreme Court of New Jersey may adopt the rules specified in this section in the form set out, at any time after this joint resolution has been delivered to and signed by the Governor of the State of New Jersey, by entering an order that the rules are adopted and by causing true copies of its order of adoption to be delivered to the President of the Senate, the Speaker of the General Assembly and the Gov-

error, without again presenting the subject matter and a tentative draft of rules at a Judicial Conference.

Rule 63 is amended to read as follows:

Rule 63. Hearsay evidence excluded; exceptions.

Evidence of a statement offered to prove the truth of the matter stated which is made other than by a witness while testifying at the hearing is hearsay evidence and is inadmissible except as provided in Rules 63 (1) through 63 (33).

A new rule designated as Rule 63 (33) is adopted to read as follows:

Rule 63 (33). Statements by a child relating to a sexual offense.

A statement by a child under the age of 12 relating to a sexual offense under the Code of Criminal Justice committed on, with, or against that child is admissible in a criminal proceeding brought against a defendant for the commission of such offense if (a) the proponent of the statement makes known to the adverse party his intention to offer the statement and the particulars of the statement at such time as to provide him with a fair opportunity to prepare to meet it; (b) the court finds, in a hearing conducted pursuant to Rule 8 (1), that on the basis of the time, content, and circumstances of the statement there is a probability that the statement is trustworthy; and (c) either (i) the child testifies at the proceeding, or (ii) the child is unavailable as a witness and there is offered admissible evidence corroborating the act of sexual abuse; provided that no child whose statement is to be offered in evidence pursuant to this rule shall be disqualified to be a witness in such proceeding by virtue of the requirements of paragraph (b) of Rule 17.

2. The rules set forth in section 1 of this Joint Resolution, if ordered adopted by the Supreme Court of New Jersey, shall take effect on the date set forth in the court order of adoption.

3. This joint resolution shall take effect immediately upon signature thereof by the Governor; and the Secretary of State is directed to transmit an authenticated copy forthwith to the Chief Justice of the Supreme Court of New Jersey.

Approved June 1, 1989.

JOINT RESOLUTION No. 5

A JOINT RESOLUTION designating the first week of October as "Grandparent Week" in New Jersey.

WHEREAS, There are approximately one million individuals in New Jersey who are 65 years of age or older; and

WHEREAS, This senior citizen population represents a tremendous untapped resource of talent, skill, knowledge and experience; and

WHEREAS, Too few opportunities currently exist for people of different ages and backgrounds to meet and socialize with senior citizens and in the process to learn from their rich storehouse of past experience; and

WHEREAS, The wisdom and assistance of our older citizens would be of particular benefit and value to the youngest members of the community, that is our school age children; and

WHEREAS, Public attention needs to be focused on the tremendous potential for positive growth and change which results from intergenerational communication and activities; and

WHEREAS, Opportunities for such intergenerational exchanges need to be encouraged, especially opportunities for school age children to meet with senior citizens and to share the benefit of their insight, knowledge and experience; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

C.36:2-15 Grandparent Week.

1. The first full week of October of each year shall be proclaimed as "Grandparent Week" in New Jersey.

2. All citizens and organizations of the State are urged to recognize "Grandparent Week" and to participate in appropriate observances.

3. All public and private schools within the State are encouraged to work with senior citizens, particularly during "Grandparent Week," to establish intergenerational programs and activities to enrich the educational experience of their students.

4. This joint resolution shall take effect immediately.

Approved June 7, 1989.

JOINT RESOLUTION No. 6

A JOINT RESOLUTION concerning handicapped young adults who are no longer eligible for public school age programs.

WHEREAS, There are over one million young adult citizens of New Jersey up to the age of 29 who have been previously classified as educationally handicapped by public school districts; and

WHEREAS, Significant numbers of these persons could become self-sufficient, taxpaying citizens through additional vocational assessment, counseling and placement; and

WHEREAS, These services are not now systematically coordinated among agencies that serve these persons after leaving the public school system; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. The Department of Labor is directed to coordinate a study with the Departments of Education, Health, Higher Education, Human Services and the Public Advocate regarding the availability of vocational assessment, counseling, placement and other training and development programs and services for the young adult handicapped population and to report to the Legislature and the Governor its findings and recommendations not later than one year after the effective date of this joint resolution.

2. This joint resolution shall take effect immediately.

Approved August 9, 1989.

JOINT RESOLUTION No. 7

A JOINT RESOLUTION establishing a commission to study the formulae employed in ascertaining the amounts paid in lieu of taxes by the Port Authority of New York and New Jersey to certain municipalities.

WHEREAS, The Port Authority of New York and New Jersey, hereinafter the Port Authority, is exempted from paying taxes on real property owned by it; and

WHEREAS, The Port Authority is authorized by statute to enter into agreements with the municipalities in which this tax exempt property is located to make payments to the municipality in lieu of the taxes which would be assessed against the property; and

WHEREAS, As the Port Authority continues to expand its facilities and property holdings, more and more valuable property is removed from the taxing jurisdiction of the municipalities, thereby increasing the burden upon the remaining property owners; and

WHEREAS, The formulae employed in ascertaining the amounts paid by the Port Authority to the municipalities in these agreements are not set forth in the statutes but rather are established by and between the parties to the agreements; and

WHEREAS, An examination of these formulae is necessary to determine whether these formulae are uniformly employed and whether the amounts ascertained by the formulae represent a fair and adequate reimbursement to the municipalities for the losses in tax revenue they incur as a result of the tax-exempt status of Port Authority property; now, therefore,

BE IT RESOLVED by the Senate and General Assembly of the State of New Jersey:

1. There is established a commission to be known as the Port Authority In-Lieu-of Tax Payment Study Commission. The commission shall consist of seven members, two of whom shall be members of the Senate of different political parties appointed by the President; two of whom shall be members of the General Assembly of different political parties appointed by the Speaker and three of whom shall be public members, appointed by the Governor, at least one of whom shall be of a different political party than the Governor. The commission shall organize as soon as possible after appointment of its members.

2. The commission shall select from among its members a chairman and also shall select a secretary, who need not be a member of the commission. The commission shall adopt rules or bylaws to govern its internal working procedures.

3. The commission shall review the formulae currently employed for ascertaining payments made in lieu of taxes by the Port Authority of New York and New Jersey to determine whether they are uniformly employed and whether the payments ascertained by those formulae

represent a fair and adequate reimbursement to the respective municipalities for the losses in tax revenue they incur as a result of the tax-exempt status of Port Authority property. The commission may recommend any changes which will further the goals of uniformity and fairness. The commission shall report its findings and recommendations, including any legislation it concludes is appropriate, to the Governor and the Legislature as soon as practicable but no later than six months after its organizational meeting.

4. The commission shall be entitled to call to its assistance and avail itself of the services and assistance of those officials and employees of the State and its political subdivisions, including the Port Authority of New York and New Jersey, and their departments, boards, bureaus, commissions and agencies as it may require and as may be available to it for its purposes and may expend those funds appropriated or otherwise made available to it for the purpose of its study.

5. The commission may meet and hold hearings at places as it so designates. The commission shall have all the powers provided by the provisions of chapter 13 of Title 52 of the Revised Statutes.

6. This joint resolution shall take effect immediately and shall expire upon the submission by the commission of its report.

Approved August 9, 1989.

JOINT RESOLUTION No. 8

A JOINT RESOLUTION memorializing the United States Bureau of the Census to include the category of veteran in the questionnaire distributed to every American for the 1990 decennial census of the United States and every census thereafter.

WHEREAS, Article I, Section II, paragraph 3 and the Fourteenth Amendment, Section II, of the Constitution of the United States provide that once every decade a census of all inhabitants of this nation shall be conducted so that representation in the United States House of Representatives may be equitably apportioned among the several states; and

WHEREAS, The census provides the most accurate measure available of the number of Americans living in this nation and abroad

and also provides vital information on the beliefs, characteristics and habits of individual Americans; and

WHEREAS, The State of New Jersey believes that it is important to know as precisely as possible how many Americans in this nation and in this State are veterans so that services can be provided to them now and in the future; and

WHEREAS, The State of New Jersey believes that much essential information on veterans could be gathered by including the category of veteran in the questionnaire distributed to every American for the 1990 decennial census of the United States and every census thereafter; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. The State of New Jersey respectfully requests that the United States Bureau of the Census include the category of veteran in the questionnaire distributed to every American for the 1990 decennial census of the United States and every census thereafter.

2. Upon approval by the Governor, duly authenticated copies of this joint resolution shall be transmitted to the Secretary of the Department of Commerce, Energy and Economic Development and the Director of the Bureau of the Census.

3. This joint resolution shall take effect immediately.

Approved August 11, 1989.

JOINT RESOLUTION No. 9

A JOINT RESOLUTION designating State Highway Route 147 as the "Anthony J. Cafiero Highway."

WHEREAS, The Honorable Anthony J. Cafiero was, at the time of his death in 1982, a well-beloved jurist with a long and distinguished career in New Jersey government; and

WHEREAS, Judge Cafiero served during his governmental career in New Jersey as City Treasurer of North Wildwood, Clerk to the Board of Chosen Freeholders of Cape May County, City Solicitor of North Wildwood, Prosecutor of Cape May County, and

also served as a Judge of the Court of Common Pleas of Cape May County from 1946 to 1948; and

WHEREAS, He was elected to the Senate of this State for the first time in 1948, and re-elected in 1951; and

WHEREAS, He was appointed a Judge of the Superior Court by Governor Driscoll on January 8, 1954 and reappointed by Governor Meyner in 1961; and

WHEREAS, Judge Cafiero served as a Judge of the Superior Court until 1970, being called back for further service in 1974 and serving until his death in 1982; and

WHEREAS, Judge Cafiero was instrumental in setting in motion the proposal to have the present State Highway Route 147 included as part of the State highway system, a proposal later embodied in law; and

WHEREAS, It is most fitting and proper that State Highway Route 147 be designated in remembrance of the Honorable Anthony J. Cafiero and in recognition of his life of devoted public service to Cape May county and the people of this State; now, therefore,

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. The Commissioner of Transportation shall designate State Highway Route 147 as the "Anthony J. Cafiero Highway."
2. The Commissioner of Transportation is authorized to erect appropriate signs bearing that name.
3. This joint resolution shall take effect immediately.

Approved January 12, 1990.

EXECUTIVE ORDERS

(1727)

Executive Orders

EXECUTIVE ORDER No. 202

WHEREAS, The State prisons and other penal and correctional institutions of the New Jersey Department of Corrections continue to house populations of inmates in excess of their capacities and remain seriously overcrowded; and

WHEREAS, These conditions continue to endanger the safety, welfare and resources of the residents of this State; and

WHEREAS, The scope of this crisis prevents local governments from safeguarding the people, property and resources of the State; and

WHEREAS, Executive Order No. 184 of January 4, 1988 expired January 20, 1989; and

WHEREAS, The conditions specified in Executive Order No. 106 of June 19, 1981, continue to present a substantial likelihood of disaster;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby declare a continuing state of emergency and ORDER and DIRECT as follows:

1. Executive Order No. 106 (Byrne) of June 19, 1981; No. 108 (Byrne) of September 11, 1981; No. 1 (Kean) of January 20, 1982; No. 8 (Kean) of May 20, 1982; No. 27 (Kean) of January 10, 1983; No. 43 (Kean) of July 15, 1983; No. 60 (Kean) of January 20, 1984; No. 78 (Kean) of July 20, 1984; No. 89 (Kean) of January 18, 1985; No. 127 (Kean) of January 17, 1986; No. 155 (Kean) of January 12, 1987; and No. 184 (Kean) of January 4, 1988 shall remain in effect until January 20, 1990, notwithstanding any sections in them stating otherwise.

2. This Order shall take effect immediately.

Issued January 26, 1989.

EXECUTIVE ORDER No. 203

WHEREAS, The relocation assistance and eviction regulations adopted by the Department of Community Affairs, N.J.A.C. 5:11, are due to expire on March 1, 1989 pursuant to the sunset provision of Executive Order No. 66 (1978); and

WHEREAS, The Department of Community Affairs has proposed to readopt these regulations, with amendments, which proposal will appear in the February 6, 1989 edition of the "New Jersey Register"; and

WHEREAS, The February 6 publication schedule will not allow sufficient time for readoption of the regulations prior to the scheduled expiration date of March 1, 1989; and

WHEREAS, Failure to readopt the regulations by the end of February will create a lapse in the law governing relocation assistance and eviction; and

WHEREAS, Such a lapse in existing law would be detrimental to the public welfare and would impede the ability of displaced persons to secure the benefits to which they are entitled by law; and

WHEREAS, The Department of Community Affairs has requested a one-month waiver of the five-year sunset provision of Executive Order No. 66 (1978) for the relocation assistance and eviction regulations, thus extending the expiration date of the current regulations from March 1, 1989 through and including April 1, 1989;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. Good cause has been shown to grant the request for a one-month waiver of Executive Order No. 66 (1978), in order to permit the current relocation assistance and eviction regulations to remain in effect through and including April 1, 1989.

2. The five-year sunset provision of Executive Order No. 66 (1978) is hereby waived for the Department of Community Affairs' relocation assistance and eviction regulations, N.J.A.C. 5:11, and the expiration for those regulations is extended for the period from March 1, 1989 through and including April 1, 1989.

Issued February 8, 1989.

EXECUTIVE ORDER No. 204

WHEREAS, The problem of drug abuse is adversely affecting the lives and safety of our citizens; and

WHEREAS, The abuse of drugs in the workplace, among other things, reduces job efficiency, increases absenteeism and sick leave, and, most importantly, jeopardizes the lives and safety of fellow employees and citizens; and

WHEREAS, The State of New Jersey has a vital interest in promoting a safe and drug-free workplace and in ensuring our citizens that public safety employees do not threaten life and limb due to the abuse of drugs; and

WHEREAS, The Federal Drug-Free Workplace Act of 1988, Public Law 100-690, Title V, Subtitle D, conditions receipt of federal grant funds upon the grantee's agreement to provide a drug-free workplace; and

WHEREAS, The Federal Drug-Free Workplace Act requires a grantee to prohibit the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, to specify actions that may be taken against employees who violate the prohibition, to establish a drug-free awareness program for employees, and to require employees and employers to give notice of any conviction for a drug offense committed in the workplace; and

WHEREAS, The citizens of this State greatly benefit from the State government's participation in federally-funded programs;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The following "Policy for a Drug-Free Workplace in New Jersey State Government" shall apply to all principal executive departments in New Jersey State Government, the Office of the Governor, and all agencies that are in, but not of, principal executive departments.

This Policy establishes minimum standards for the imposition of discipline and for participation in drug abuse treatment programs in the limited context of convictions for drug offenses committed in the workplace. Nothing in this Policy precludes the application of other more comprehensive or more stringent provisions governing

drug offenses committed by State employees. In fact, the Cabinet Task Force on Drug Testing in the Workplace, which was created in Executive Order No. 191, will formulate a more comprehensive State policy regarding drug abuse and the workplace in the near future.

2. The State of New Jersey is committed to maintaining a drug-free workplace for all State employees in order to protect the health and safety of State employees and the public.

3. The unlawful manufacture, distribution, dispensation, possession or use of a drug in the workplace is prohibited.

4. In addition to any other applicable civil or criminal penalty, any employee convicted of illegal manufacture, distribution, dispensation, possession or use of a drug in the workplace shall be subject to the following consequences:

a. The State Forfeiture of Public Office statute (N.J.S.2C:51-2) requires forfeiture of public office or employment upon conviction of a crime of the third degree or higher. All convictions of crimes of the third degree or higher listed in the Comprehensive Drug Enforcement Act of 1987, and all convictions for equivalent federal and out-of-State drug offenses, require forfeiture of public office or employment.

b. The Forfeiture of Public Office statute also requires forfeiture of public office or employment upon conviction for an offense involving dishonesty or upon conviction for an offense involving or touching upon the convicted person's public employment irrespective of the degree of the offense. Consequently, convictions for any drug offense occurring in the workplace (including fourth degree, disorderly persons and petty disorderly persons offenses) which are determined to involve or touch upon the office or employment of an individual may result in the statutory forfeiture of public office or employment.

c. In the case of a drug conviction for an offense occurring in the workplace that does not result in statutory forfeiture of public office or employment, disciplinary action shall be taken. The extent of disciplinary action shall be determined by the appointing authority. In addition, in the case of any disciplinary action other than removal, an employee shall be required to satisfactorily participate in a program for the treatment of drug abuse approved by both the appointing authority and any federal or State agency responsible for the approval or licensure of such programs.

d. Each department head, agency head, or their designee who

receives notice of a drug offense conviction shall, within 30 days of receipt of notice, take the administrative action necessary for removal where statutory forfeiture is required, and where statutory forfeiture is not required, take the administrative action necessary to impose discipline and require satisfactory participation in an approved program for drug abuse where appropriate.

5. An employee who is convicted of a drug offense committed in the workplace must, within five days, report the conviction to his or her supervisor.

6. Each supervisor who receives a report of a conviction for a drug offense in the workplace must immediately report the conviction, according to departmental or agency procedures, to the department head, agency head, or their designee.

7. Within 10 days of the supervisor's receipt of notice of a conviction for a drug offense, the department head, agency head, or their designee shall ensure that notification of such conviction is provided to any federal agency providing funds for a program in which the convicted employee is employed.

8. Each department head, agency head, or their designee must develop and implement procedures to ensure that reports, which are received by supervisors, concerning convictions for drug offenses in the workplace are reported promptly to the department head, agency head, or their designee.

9. Each department head, agency head, or their designee must maintain records that contain the following information on each conviction for a drug offense committed in the workplace by an employee:

- a. Date of conviction;
- b. Disciplinary action taken;
- c. Whether the employee is one whose duties involve the performance of a federal grant; and
- d. Date federal grantor was notified of the conviction, if applicable.

10. Each department head, agency head, or their designee will distribute an Employee Notice and this Executive Order to each current employee. Each department head, agency head, or their designee shall distribute these documents to any employee who joins

the work force after the initial distribution. A program entitled "Drug-Free Awareness" is being developed, and upon completion will be provided to all employees.

11. Definitions for purpose of this policy:

a. "Conviction" means a finding of guilt, or a plea of guilty, before a court of competent jurisdiction, and, where applicable, a plea of nolo contendere. A conviction is deemed to occur at the time the plea is accepted or verdict returned. It does not include entry into and successful completion of a pre-trial intervention program, pursuant to N.J.S.2C:43-12 et seq., or a conditional discharge, pursuant to N.J.S.2C:36A-1.

b. "Drug" means a controlled dangerous substance, analog, or immediate precursor as listed in Schedules I through V in the New Jersey Controlled Dangerous Substances Act, C.24:21-1 et seq., and as modified in any regulation issued by the Commissioner of Health. It also includes controlled substances in Schedules I through V of Section 202 of the Federal Controlled Substance Act of 1970 (21 U.S.C. § 812). The term shall not include tobacco or tobacco products or distilled spirits, wine, or malt beverages as they are defined or used in R.S.33:1-1 et seq.

c. "Employee" means all employees of the Office of the Governor or a department or agency within the scope of this Policy, whether full- or part-time, and whether in the career, senior executive or unclassified service.

d. "Workplace," for the purposes of this Policy only, means the physical area of operations of a department or agency including buildings, grounds and parking facilities provided by the State. It includes any field location or site at which an employee is engaged, or authorized to engage, in work activity, and includes any travel between such sites.

12. This Policy is effective March 18, 1989 and shall remain in effect until superseded by statute, regulation or Executive Order.

Issued March 14, 1989.

EXECUTIVE ORDER No. 205

WHEREAS, The State of New Jersey's rural and urban communities are rich in a variety of natural resources; and

WHEREAS, There is an increasing demand being placed upon these natural resources to support the State's citizenry; and

WHEREAS, A clear awareness among the public of the frailty of these natural resources is necessary to protect the health and preserve the quality of life of the State's citizenry; and

WHEREAS, It is essential to provide the State's citizenry with opportunities to acquire the knowledge, values, attitudes, commitment and skills needed to protect and enhance these aspects of our environment;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created the Commission on Environmental Education which shall:

a. identify specific information on the protection and enhancement of the environment which should be communicated to the State's citizenry;

b. propose a plan of actions and programs, including educational initiatives, which should be undertaken to ensure that this information is communicated to the State's citizenry; and

c. provide recommendations regarding measures that should be undertaken by individual and corporate citizens of New Jersey to conform behavior toward protection and enhancement of the environment.

2. The Commission shall consist of 22 members including:

a. two representatives from academia in the fields of environmental education and/or environmental science;

b. one representative of the clergy;

c. two representatives from labor/industry;

d. two representatives from cultural institutions including, but not limited to, organizations such as museums and nature centers;

e. three public or private school teachers, one from each of the following groupings—grades kindergarten to third, grades fourth to sixth, and grades seventh to twelfth;

f. one representative from school administration;

g. one representative from a local school board;

h. two representatives from non-partisan, public interest groups;

i. two representatives from the medical and/or health profession;

j. two non-academic science professionals;

k. two representatives from environmental education groups;

l. the Commissioner of Education, or his designee; and

m. the Commissioner of Environmental Protection, or his designee.

3. The Commission shall provide all individuals or organizations so inclined with the opportunity to provide written and/or oral testimony.

4. The Commission shall establish a work schedule and report its findings to the Governor no later than April 23, 1990.

5. This Order shall take effect immediately.

Issued April 24, 1989.

EXECUTIVE ORDER No. 206

WHEREAS, Executive Order No. 11, dated July 23, 1982, created an Ethnic Advisory Council to advise the Governor regarding the needs of the ethnic communities in New Jersey; and

WHEREAS, Through Executive Order No. 11, the Executive Branch of government has recognized that the State of New Jersey is one of the most ethnically and culturally diverse states in the country; and

WHEREAS, The wide variety of customs, languages and histories of these varied ethnic groups has significantly enhanced and enriched the quality of the State's cultural and social life; and

WHEREAS, The continued influx of new ethnic groups into New Jersey has precipitated the need to increase our awareness, appreciation and understanding of each of these new ethnic groups; and

WHEREAS, Increasing the membership of the Ethnic Advisory Council to include representatives from these new groups will allow for a better understanding of their contributions and needs;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority invested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. Section 2(a) of Executive Order No. 11 is hereby amended as follows:

“2(a). The Council shall consist of 26 members appointed by the Governor. At least 14 of these appointees shall be representatives of ethnic communities within the State of New Jersey. In selecting the Council membership, consideration shall be given to appointing as broad a representative sample as possible of New Jersey’s ethnic communities. All new members of the Ethnic Advisory Council who are appointed upon the effective date of this Order shall serve a full two-year term from the date of this Order.”

2. This Order shall take effect immediately.

Issued April 25, 1989.

EXECUTIVE ORDER No. 207

WHEREAS, An individual’s right to vote is a fundamental right that serves as the bulwark of our democracy; and

WHEREAS, Many individuals do not exercise their right to vote because they are unaware of registration requirements or do not have access to voter registration applications; and

WHEREAS, The State is in a unique position to make voter registration applications available to its citizens and thereby assure that they have the opportunity to exercise their fundamental right to vote;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby DIRECT:

1. State departments shall make mail voter registration applications available to their employees. In addition, State departments that have regular contact with the public in their daily administration of business, including, but not limited to, the Department of Environmental Protection, the Department of Health, the Department of Higher Education, the Department of Human Services, the Department of Labor, the Department of Law and Public Safety and the Department of State, shall make mail voter registration applications available at their public offices. These applications shall be placed in visible locations at these offices so as to be readily accessible to members of the public. Signs clearly indicating that applications are available shall be posted at these offices.

2. State departments that have regular contact with the public are requested to assist persons in registering to vote by:

- a. Upon request, assisting persons in completing the registration forms, including witnessing those forms; and
- b. Collecting completed forms and forwarding them to the proper election office.

3. Employees of the State departments that have regular contact with the public shall receive adequate training to insure the proper completion of voter registration forms. This training shall include but not be limited to:

- a. Proper completion of forms; and
- b. Knowledge of basic registration information, including registration deadlines and when registration or reregistration is required.

4. State employees participating in this program shall adhere to strict neutrality with respect to a person's political party enrollment. State employees shall make it clear whenever necessary that the receipt of State services does not depend in any way on whether a person is registered to vote.

5. The Election Division of the Office of the Secretary of State shall supervise the implementation, administration and effective operation of this program. The responsibilities of the Election Division shall include but not be limited to:

- a. Planning and coordinating State employee training sessions and the distribution of registration materials; and
- b. Compiling and submitting a report to the Governor on the

progress of the program and the number of completed registration forms collected by each participating State department.

6. This Order shall supersede Executive Order No. 194 and shall become effective one month following signature.

Issued May 25, 1989.

EXECUTIVE ORDER No. 208

WHEREAS, On April 25, 1988, in commemoration of the 40th anniversary of the founding of the State of Israel, I signed a Sister State Agreement with Israel as a symbol of the potential for cooperation that exists between our two states; and

WHEREAS, This Agreement calls for the development of trade, cultural and educational exchanges, in addition to encouraging the development of capital investment and joint business ventures; and

WHEREAS, The establishment of a New Jersey-Israel Commission will enhance New Jersey's ability to implement the stated goals of this Agreement and will help to foster a spirit of cooperation between the citizens of the State of Israel and the citizens of the State of New Jersey;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Commission to be known as the New Jersey-Israel commission (hereinafter referred to as "Commission").

2. The Commission shall consist of a minimum of 15 members and a maximum of 100 members. The members of the Commission shall be appointed by the Governor. The Governor shall designate the co-chairpersons of the Commission from among the members, who shall serve at the pleasure of the Governor.

3. The Commission shall report directly to the Director of the Office of Sister State Relations.

4. The Commission shall assist the Office of Sister State Relations by recommending a plan for a broad series of exchanges between the State of New Jersey and the State of Israel.

5. Within one year of its inception, the Commission shall provide the Governor and the Director of the Office of Sister State Relations with an interim report of its work.

6. The Commission shall be in existence for two years from the date of this Order.

7. This Order shall take effect immediately.

Issued May 31, 1989.

EXECUTIVE ORDER No. 209

WHEREAS, The Center for International Business Education (hereinafter the "Center") located at Rutgers University was established to assist New Jersey businesses in international competition; and

WHEREAS, The expansion of international trade is important to the continued growth of New Jersey's economy; and

WHEREAS, The Center seeks to facilitate the entry of New Jersey businesses into foreign markets; and

WHEREAS, The establishment of an Advisory Council would aid the Center in its mission;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created an Advisory Council (hereinafter referred to as the "Council") to the Ambassador Arnold Raphel Center for International Business Education. It will be the purpose of the Council to provide to the Division of International Trade, the Center's staff and Rutgers University, recommendations that will aid in the effective operation of the Center, including, but not limited to, new programs to be undertaken by the Center and ways to improve coordination with business education programs in the State.

2. The Council shall consist of 13 members appointed by the Governor. Five of the members will be permanent representatives chosen from the Division of International Trade, Rutgers University, Ramapo College, the World Trade Institute of the Port Authority of New York and New Jersey, and Stockton State College, and eight

will be rotating members from the private sector. The terms of office for the rotating members will be three years, but two of the initial private members shall serve one-year terms and three shall serve two-year terms. Each rotating member shall serve until a successor is named. The Governor shall designate the chairperson of the Council from among the members, who shall serve at the pleasure of the Governor.

3. The Council shall meet at least quarterly and shall prepare a yearly report on its activities. A copy of the report shall be distributed to the Governor, the Director of the Division of International Trade, Rutgers University, and the Legislature.

4. This Order shall take effect immediately.

Issued June 5, 1989.

EXECUTIVE ORDER No. 210

WHEREAS, The Power Authority of the State of New York owns and operates two hydroelectric power projects on the Niagara and Saint Lawrence Rivers pursuant to licenses issued under federal law; and

WHEREAS, These licenses require that a portion of each project's output be made available for use in neighboring states and require the Power Authority of the State of New York to negotiate for the purchase and allocation of this power with a State-appointed bargaining agent, if one has been appointed; and

WHEREAS, Executive Order No. 18 (1982) authorized the New Jersey Board of Public Utilities to act as the bargaining agent for the State of New Jersey for the purchase and allocation of such power to all residential electric consumers, whether they be customers of investor or municipally owned utilities; and

WHEREAS, The Power Authority of the State of New York has proposed a written contract which will require the Board of Public Utilities, as the State-appointed bargaining agent, to purchase all power to be allocated in New Jersey, to assume the binding obligation to compensate the Power Authority of the State of New York for the power and to ensure allocation of the power as required by the federal licenses; and

WHEREAS, It would be in the best interests of the State of New Jersey for these administrative and fiscal obligations to be assumed by the Public Power Association of New Jersey with the Board of Public Utilities retaining regulatory jurisdiction over the purchase and allocation of the power and over the rates of the power;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The Public Power Association of New Jersey is designated the bargaining agent for the State of New Jersey to negotiate and administer contracts with the Power Authority of the State of New York, as appropriate, to provide for the allocation of power generated by the hydroelectric power projects on the Niagara and Saint Lawrence Rivers to New Jersey and to its residential electric consumers according to the terms of the contracts and licenses of such hydroelectric projects.

2. The Board of Public Utilities shall retain regulatory jurisdiction over the purchase and allocation of the power to the residential electric consumers in the State of New Jersey and is empowered to establish regulations and rates for such power.

3. The Public Power Association of New Jersey, as bargaining agent, shall prepare and submit an Annual Report to the Board of Public Utilities setting forth the amount and cost of the power delivered to New Jersey, the allocation of the power to New Jersey residents and any modifications to the contractual relationship with the Power Authority of the State of New York. Copies of the Annual Report shall be supplied to each utility receiving power and to any other interested party.

4. Executive Order No. 18 (1982) is rescinded.

5. This Order shall take effect immediately.

Issued June 21, 1989.

EXECUTIVE ORDER No. 211

WHEREAS, Executive Order No. 193 created a Governor's Advisory Council on Mental Health Services Planning to (a) conduct a comprehensive review of New Jersey's mental health system, (b) assess and formulate public policy issues affecting the mentally ill, and (c) develop a comprehensive State mental health plan; and

WHEREAS, The Council was required to report its findings and recommendations to the Governor by December 31, 1989; and

WHEREAS, The Council has been pursuing its mandate in accordance with the Order but is unable to complete its Final Report by the end of the year; and

WHEREAS, The Council has formally requested a six-month extension of its tenure;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The term of the Governor's Advisory Council on Mental Health Services Planning is hereby extended for a period of six months and will expire on June 30, 1990. The Governor's Advisory Council on Mental Health Services Planning shall issue an Interim Report of its findings and recommendations to the Governor on November 1, 1989 and a Final Report prior to June 30, 1990.

2. All other provisions of Executive Order No. 193 remain in full force and effect without any modification.

3. This Order shall take effect immediately.

Issued August 4, 1989.

EXECUTIVE ORDER No. 212

WHEREAS, Flammable and otherwise dangerous materials have been placed under and adjacent to portions of Routes 22 and 78 and adjacent to Routes 1 and 9 in the City of Newark; and

WHEREAS, A catastrophic fire has occurred in those materials and has resulted in substantial structural damage to a portion of Route 78; and

WHEREAS, The damage to the affected portion of Route 78 has totally impeded the flow of traffic over this major highway; and

WHEREAS, Route 78 serves as a major artery in this State's highway system, is a component of the Interstate System which is designed to connect principal metropolitan areas and industrial centers and to serve the national defense, 23 U.S.C. § 103, and is a highway that is critical to the free flow of traffic to and from a major airport; and

WHEREAS, The presence of these materials constitutes an immediate threat to the public health, safety and welfare of the citizens of the State of New Jersey in the form of a continued threat of additional catastrophic fire; and

WHEREAS, The presence of these materials constitutes an immediate threat of further damage or other impediments to the use of Route 78 and other major transportation routes and facilities in the area; and

WHEREAS, The effective and immediate management and control of the removal, storage and disposal of these materials is beyond the capabilities of the owners and lessees of the property described herein and the local authorities; and

WHEREAS, The management and control of the traffic emergency created by the destruction of this critical portion of Route 78 is beyond the capabilities of local authorities; and

WHEREAS, This Order is essential to achieve an expeditious and efficient cleanup of these materials to prevent a further occurrence of this nature and to manage the traffic emergency caused by severe damage to this portion of Route 78; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251 (C.App.A:9-34, C.App.A:9-51) and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. I declare that a state of emergency exists by reason of the facts and circumstances set forth above.

2. I hereby empower the Commissioner of Environmental Protection, the Commissioner of Transportation and the Director of the Office of Emergency Management, individually or together, to use, seize, impound, quarantine, secure, restrict access to, or require the vacating of, or the making of modifications or improvements, temporary or permanent, to any real or personal property which in their judgment is reasonably required to abate the emergency caused by the presence of these materials and the consequent threat to public health and welfare as described above.

3. I direct the Commissioner of Environmental Protection to coordinate the seizure, removal and disposal, without regard to the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26-6.1 et seq.), of all materials that he, in his discretion, deems to present a threat to the health, safety and welfare of the public.

4. I direct the Director of the Office of Emergency Management to coordinate the control and direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, including the right to detour, reroute or divert any or all traffic and to prevent ingress or egress from the area designated in this Executive Order that he, in his discretion, deems necessary for the protection of the health, safety and welfare of the public.

5. I direct the Commissioner of Transportation to undertake immediately all acts necessary to accomplish, as expeditiously as possible, the restoration and repair of the damaged portion of Route 78.

6. It shall be the duty of every person or entity in this State or doing business in this State and the members of the governing body, and of each and every official, agent or employee of every political subdivision in this State and of each member or all other governmental bodies, agencies and authorities in this State of any nature whatsoever, fully to cooperate with the Commissioners of Environmental Protection and Transportation and the Director of the Office of Emergency Management in all matters concerning this emergency.

7. This Order shall take effect immediately.

Issued August 10, 1989.

New Jersey State Library

EXECUTIVE ORDER No. 213

WHEREAS, The New Jersey Legislature has enacted numerous statutes requiring the State and its departments, divisions, agencies and authorities to set aside a certain percentage of construction, goods, equipment and services contract awards for minority and female businesses, including provisions of the Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses, C.52:32-17 et seq.; the New Jersey Sports and Exhibition Authority Law, C.5:10-1 et seq.; the Casino Control Act, C.5:12-1 et seq.; the New Jersey Wastewater Treatment Trust Act, C.58:11B-1 et seq.; the New Jersey Urban Development Corporation Act, C.55:19-1 et seq.; the New Jersey Local Development Financing Fund Act, C.34:1B-36 et seq.; and the New Jersey Transportation Trust Fund Authority Act of 1984, C.27:1B-1 et seq.; and

WHEREAS, The United States Supreme Court in the case of the City of Richmond v. Croson invalidated as violative of the Fourteenth Amendment a minority set-aside program administered by the City of Richmond that reserved 30 percent of the dollar amounts of construction contracts awarded by the City for minority businesses; and

WHEREAS, The United States Supreme Court in Croson invalidated the City of Richmond's minority set-aside program because the City had failed to meet strict standards established by the Court for demonstrating prior racial discrimination by the City in letting contracts and because the program had not been narrowly tailored to remedy any identified prior discrimination; and

WHEREAS, New Jersey continues to strongly support minority and female set-aside programs as a vehicle for remedying discrimination, for ensuring that minority and female businesses receive a fair share of State business and for providing an opportunity for those businesses to grow, to develop competitively and to establish favorable reputations and expertise; and

WHEREAS, In light of Croson, New Jersey must be able to demonstrate that its minority or female business set-aside programs are narrowly tailored to further compelling governmental interests in remedying prior racial or sex discrimination by government; and

WHEREAS, The creation of a study commission will permit New Jersey to investigate, research and report on the nature and scope of

any discrimination in public works procurement and construction contracts awarded by the State and to recommend remedies for any discrimination;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts (hereinafter referred to as the Study Commission).

2. The Study Commission shall consist of 18 members as follows: two members of the Minority Business Advisory Council, two members of the Small Business Advisory Council, two members of the Women's Business Advisory Council, one member of the Governor's Authorities Unit and three at-large members, all appointed by the Governor; one representative each from the Assembly and the Senate; and the Commissioners of Commerce, Energy and Economic Development, Environmental Protection and Transportation, the Treasurer, the Attorney General and the Chancellor of Higher Education, or their designees.

3. The Study Commission shall organize as soon as practicable after the appointment of its members. A Chairperson shall be appointed by the Governor and a Vice Chairperson shall be selected by and from among the members of the Study Commission. The members shall serve without compensation. In the absence of the Chairperson, the Vice Chairperson shall have all powers and duties of the Chairperson. The Commission shall meet periodically and conduct its affairs in a timely manner.

4. The Study Commission shall investigate the nature and scope of any discriminatory practices in the letting of construction and procurement public works contracts by the State of New Jersey. The Commission shall gather existing data, reports and studies and shall prepare an analysis of this information in order to develop probative evidence of any prior or present discrimination in public works procurement and construction contracts awarded by the State. The Study Commission shall compare the percentage of minority and female businesses in the State qualified to receive public contract awards to the percentage of State construction and purchase contracts awarded to minority and female businesses and shall investigate the State's participation, active or passive, past or present, with private industry, unions or others in excluding minorities and

female businesses from public works procurement and construction projects.

5. Where the Study Commission finds evidence of discriminatory practices in State contracting, it shall identify and evaluate remedies for these practices consistent with guidelines established by the Supreme Court in Croson. In considering the use of minority or female business set-asides, the Study Commission shall evaluate the effectiveness of the State's experience in the use of set-aside programs to remedy discrimination. The Study Commission shall also evaluate and make recommendations concerning the geographic locations of businesses that should be included in any set-aside programs and mechanisms that will ensure effective implementation and enforcement of any set-aside programs.

6. The Study Commission is authorized to call upon any department, office, division or agency of this State to supply it with data, and any other information, personnel or assistance it deems necessary to discharge its duties under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Study Commission to furnish it with such information, personnel and assistance as is necessary to accomplish the purpose of this Order. The Attorney General shall act as legal counsel to the Study Commission.

7. The Study Commission shall report its findings and recommendations concerning past and present discriminatory practices in public works procurement and construction contracts to the Governor no later than six months after the effective date of this Order.

8. Each department, office, division, agency or authority of this State responsible for the administration of a minority or women's set-aside program shall seek the advice of the Attorney General as to the legality of the set-aside programs it administers and shall undertake any and all measures necessary to implement in a legally valid manner those programs or other comparable programs designed to meet the objectives set forth in this Order.

9. This Order shall take effect immediately and shall expire six months after its effective date.

Issued August 14, 1989.

EXECUTIVE ORDER No. 214

WHEREAS, Executive Order No. 213 established the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts to investigate, research and report on the nature and scope of any discrimination in public works procurement and construction contracts awarded by the State and recommend remedies for any discrimination; and

WHEREAS, The Study Commission would benefit from the expansion of its membership to include representatives of the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises and the Governor's Advisory Council on Minority Business Development and additional representatives of the public at large;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The membership of the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts is hereby expanded to include two representatives of the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises, two representatives from the Governor's Advisory Council on Minority Business Development and six additional public members, all of whom shall be appointed by the Governor.

2. Except as provided in section 1 of this Executive Order, all other terms of Executive Order No. 213 shall remain in force and effect.

3. This Order shall take effect immediately.

Issued August 18, 1989.

EXECUTIVE ORDER No. 215

WHEREAS, The protection of the environment, which is the subject of a public trust administered by government for the benefit of all citizens, is a primary responsibility of State government; and

WHEREAS, Government must not only regulate but also must provide an example in the effort to protect the human environment and the natural resources of the State; and

WHEREAS, The design and location of projects initiated or funded by departments, agencies or authorities of State government may have significant primary and consequential effects on the environment; and

WHEREAS, The protection of the environment, the management of development, and the prudent use of the State's limited land and other resources will be fostered by the proper location and design of projects initiated or funded by departments, agencies or authorities of State government; and

WHEREAS, The potentially adverse environmental impact of projects initiated or funded by departments, agencies or authorities of State government can be substantially reduced or eliminated if that impact is assessed before the approval of such project and agreement reached on the ways and means to ensure environmental compatibility;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. All departments, agencies and authorities of the State shall prepare and submit to the Department of Environmental Protection an environmental assessment or environmental impact statement, as specified below, in support of major construction projects. Projects directly initiated by departments, agencies, or authorities of the State, as well as projects in which the State departments, agencies or authorities are granting at least 20 percent financial assistance, shall comply with this Order.

For the purpose of determining an appropriate level of review, projects shall be categorized as follows:

a) Level 1—projects with anticipated construction costs in excess of \$1 million shall be subject to the preparation of an environmental assessment. The assessment shall follow guidelines prepared by the Department of Environmental Protection, attached herewith to this Order. Alternatively, environmental assessments prepared to support a "Finding of No Significant Impact" under the National Environmental Policy Act may be substituted for an assessment otherwise required pursuant to the attached Department of Environmental Protection guidelines; or

b) Level 2—projects with both construction costs in excess of \$5 million and land disturbance in excess of five acres shall be subject

to the preparation of an environmental impact statement. The statement shall follow guidelines prepared by the Department of Environmental Protection, attached herewith to this Order.

2. The assessment or impact statement shall be submitted by the proposing or granting department, agency or authority and reviewed by the Department of Environmental Protection as early in the project planning and design process as possible, but in all cases such submission and the review process which follows must be completed prior to commencing site preparation and/or construction activity on the project. In the case of any project to be funded by a department, agency, or authority of the State, review of the assessment or impact statement must be completed by the Department of Environmental Protection prior to awarding any financial assistance for the commencement of site preparation and/or construction activity.

3. Upon receipt of an environmental assessment or impact statement the Department of Environmental Protection shall undertake a review to determine whether the documents submitted are administratively complete. Within 20 days of receipt, the Department of Environmental Protection shall either certify that the environmental assessment or impact statement is administratively complete and conforms to the guidelines attached herewith to this Order, or specify in writing to the proposing or granting department, agency, or authority that the environmental assessment or impact statement is administratively deficient. If deemed deficient, the proposing or granting department, agency or authority shall correct such deficiency or deficiencies as specified by the Department of Environmental Protection and may resubmit the environmental assessment or impact statement at any time thereafter for review by the Department. Within sixty (60) days of the Department of Environmental Protection's receipt of an environmental assessment or impact statement determined to be administratively complete, the Department shall conclude its review of such assessment or impact statement. If the Department of Environmental Protection has not concluded its review of the assessment or impact statement within this 60-day period, the project shall be deemed approved.

4. Upon concluding its review, the Department of Environmental Protection shall provide a written response to the proposing or granting department, agency or authority. The response shall include the following:

a) identification of any probable adverse environmental impacts that could be expected from project implementation;

b) an identification of any Department of Environmental Protection permits or regulatory requirements which will be applicable to the proposed project; and

c) recommendations including, but not limited to:

i) approval based on the representations made in the assessment or impact statement;

ii) conditional approval, including receipt of permits and/or measures to reduce and/or mitigate the anticipated impacts to an acceptable level;

iii) an additional impact assessment on one or more specific environmental consequences;

iv) project modification to avoid adverse environmental impacts; and

v) major restructuring of the project.

5. Within thirty (30) days of receiving the Department of Environmental Protection's recommendation(s), the proposing or granting department, agency or authority shall provide the Department of Environmental Protection with a written response either indicating acceptance of the Department of Environmental Protection's recommendation(s) or setting forth those issues remaining in dispute.

6. Any dispute regarding implementation of the Department of Environmental Protection's recommendation(s) shall be resolved in good faith through meetings between the Commissioner of Environmental Protection and the commissioner, chairman or agency head of the proposing or granting department, agency or authority.

7. Notwithstanding the anticipated construction costs or land disturbance involved, the provisions of this Order shall not apply to the following types of projects:

a) maintenance or repair projects;

b) facilities or equipment replaced in kind at the same location;

c) renovations or rehabilitation of existing buildings;

d) expansions or additions of existing buildings, provided that the expansion or addition does not increase the building's capacity by more than 25 percent;

e) projects subject to review pursuant to the provisions of the

Coastal Area Facility Review Act or the Municipal Wastewater Treatment Financing Program;

f) projects which will require a full environmental impact statement pursuant to the National Environmental Policy Act;

g) projects classified as categorical exclusions pursuant to regulations promulgated in accordance with the National Environmental Policy Act; or

h) projects involving loans or tax exempt financing to private sector applicants by departments, agencies or authorities of the State of New Jersey.

8. This Order shall not apply to authorities or commissions created pursuant to interstate agreements.

9. This Order shall not apply to projects previously exempt from Governor Cahill's Executive Order No. 53 (1973) where final plans and specifications have been completed on such projects prior to this Order taking effect.

10. Governor Cahill's Executive Order No. 53 (1973) is hereby rescinded.

11. This Order shall take effect immediately.

Issued September 11, 1989.

EXECUTIVE ORDER No. 216

WHEREAS, The federal Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., as amended by provisions regarding Indoor Radon Abatement, Pub.L.100-551, 102 Stat. 2755 (1988), allows the Administrator of the United States Environmental Protection Agency to make grants for the purpose of assisting states in the development and implementation of programs for the assessment and mitigation of radon; and

WHEREAS, The Toxic Substances Control Act requires that each state's grant application be filed by the Governor of that state; and

WHEREAS, The Radiation Protection Act of 1958, C.26:2D-1 et seq., charges the Department of Environmental Protection with the

responsibility to develop comprehensive programs for the evaluation and amelioration of hazards associated with all sources of radiation, including radon, and to accept and administer loans, grants or other funds from the federal government for carrying out its functions under the Act;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The Commissioner of Environmental Protection to submit New Jersey's Federal Radon Grant Proposal on my behalf.
2. This Order shall take effect immediately.

Issued September 12, 1989.

EXECUTIVE ORDER No. 217

WHEREAS, Executive Order No. 51 created a Governor's Task Force on Child Abuse to (a) study the problem of child abuse in New Jersey and make recommendations for corrective action, (b) mobilize citizens and community agencies in a strong, prevention-oriented, proactive effort to address child abuse, (c) develop mechanisms to facilitate early detection of child abuse, to furnish appropriate services to the victims of child abuse and their families and to foster cooperative working relationships between responsible agencies, and (d) provide other information on child abuse as the Governor may request; and

WHEREAS, The Governor's Task Force on Child Abuse was to conclude its work by January 1, 1985; and

WHEREAS, The Governor's Task Force on Child Abuse was subsequently renamed the Governor's Task Force on Child Abuse and Neglect, was continued in existence for additional two-year periods by Executive Orders Nos. 110 and 173 and is presently set to expire on December 31, 1989; and

WHEREAS, There continues to be a need for the Task Force to educate the community and make the public aware of this serious social problem, to prevent child abuse and neglect and to ensure community support for these child protection measures;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The Governor's Task Force on Child Abuse and Neglect shall hereby continue in existence until December 31, 1991.
2. The powers and responsibilities of the Task Force pursuant to Executive Order No. 51, Executive Order No. 110 and Executive Order No. 173 are continued.
3. The public members on the Task Force may include county freeholders, representatives of child or family social work organizations and victims of child abuse or their families.
4. The Task Force may solicit, receive, disburse and monitor grants and other funds available from any governmental, public, private, not-for-profit or for-profit source, including, but not limited to, funding available under any federal or State law, regulation or program.
5. All departments, agencies and divisions are authorized and directed, to the extent not inconsistent with law, to cooperate with the Task Force. The Department of Human Services is authorized and directed to furnish the Task Force with such staff, office space and supplies as necessary to accomplish the purpose of this Order.
6. All other provisions of Executive Order No. 51, Executive Order No. 110 and Executive Order No. 173 shall remain in full force and effect without any modification.
7. This Order shall take effect immediately.

Issued September 12, 1989.

EXECUTIVE ORDER No. 218

WHEREAS, The revitalization and economic development of the Hackensack Meadowlands and the Hudson River Waterfront are dependent upon an efficient highway and transit system to facilitate the public's access to and mobility around these regions; and

WHEREAS, The "Governor's Mobility Plan" (hereinafter referred to as "the Plan"), more fully described in the attached document entitled "Corridors, Segments and Projects," has been developed cooperatively by the Chairman of the New Jersey Turnpike Authority, the Executive Director of New Jersey Transit, the President and Chief Executive Officer of the New Jersey Sports and Exposition Authority, the Commissioners of Transportation, Environmental Protection and Community Affairs, and the Governor's Chief of Policy and Planning; and

WHEREAS, The Plan's major objectives are to:

- a. Improve access to and mobility around the Hudson River Waterfront;
- b. Relieve congestion on the New Jersey Turnpike; and
- c. Improve access to and mobility around the Hackensack Meadowlands region and the Meadowlands Sports Complex; and

WHEREAS, The Plan consists of a network of roads, interchanges, busways, peplemovers, rail routes and stations and tunnels connecting the Hudson River Waterfront, the Hackensack Meadowlands Sports Complex and the New Jersey Turnpike; and

WHEREAS, Implementation of the Plan will improve, augment and connect the various existing transportation facilities of this area into a single integrated system; and

WHEREAS, Successful implementation of the Plan is contingent upon the thorough and responsible evaluation of numerous complex issues, including, but not limited to, the design of transportation systems, environmental compliance, an assessment of construction costs and the identification of financing sources; and

WHEREAS, The public's interest in timely and expert evaluation of the planning, construction and financing of each project proposed under the Plan is best served by coordination among the State agencies which have developed the Plan, the Port Authority of New York and New Jersey and the private sector through the establishment of a coordinating committee;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created the Governor's Mobility Plan Coordinating Committee (hereinafter referred to as the "Committee").

2. The Committee shall consist of eight members as follows:

- a. The Commissioner of Transportation;
- b. The Commissioner of Environmental Protection;
- c. The Commissioner of Community Affairs;
- d. The Chairman of the New Jersey Turnpike Authority;
- e. The Executive Director of New Jersey Transit Corporation;
- f. The President and Chief Executive Officer of the New Jersey Sports and Exposition Authority;
- g. The Executive Director of the Port Authority of New York and New Jersey or his designee; and
- h. One representative from the Governor's Office to be designated by the Governor.

3. The Committee shall organize as soon as practicable. The Commissioner of Transportation shall serve as Chairperson of the Coordinating Committee and a Vice Chairperson shall be selected by and from among the members of the Committee. The members shall serve without compensation. In the absence of the Chairperson, the Vice Chairperson shall have all of the powers and duties of the Chairperson. The Committee shall meet periodically pursuant to the call of the Chairperson, but in no event shall the Committee meet less than once in each quarter of any year.

4. The Committee shall exercise its authority to continue the planning process and to coordinate the efficient implementation of the Plan.

5. The Committee shall coordinate the development of the Plan with respect to the following:

- a. Detailed planning of the transportation system which shall include: an analysis of the costs involved in conforming projects to comply with federal and State environmental laws; an alternatives analysis designed to avoid or minimize a project's impact upon environmentally sensitive areas including, but not limited to, wetlands; preliminary engineering studies to determine the feasibility of each segment of the Plan; and involvement of the public in all aspects of planning;

b. Identification of the source of any additional funding required to implement the Plan;

c. The development of an interagency agreement between the Department of Environmental Protection and the Hackensack Meadowlands Development Commission to ensure that permits required for various elements of the Plan located within the Hackensack Meadowlands District are issued in a timely, coordinated manner;

d. The development of any other interagency agreements deemed necessary to facilitate implementation of the Plan;

e. An analysis and recommendation concerning any legislative enactments necessary as a predicate to implementation of the Plan.

6. The Committee shall coordinate its members and the private sector to ensure that all documents required by federal and State law, including but not limited to environmental assessments, impact statements, grant applications and permit applications, have been properly and timely prepared. The Committee shall also coordinate the development of the final design, including the identification of any rights-of-way or other real property that must be purchased, and shall monitor construction to ensure that it is consistent with the pre-approved final design.

7. In order to carry out its functions, the Committee may conduct public meetings and hearings or otherwise develop and implement a public participation program to solicit information from the citizenry and any other sources deemed appropriate. Notice of any public hearings shall be given in such manner as the Chairperson may direct to provide full opportunity for interested members of the public to be heard.

8. In April of each year, the Committee shall submit a written report to the Governor, the President of the Senate and the Speaker of the General Assembly which shall include detailed information regarding:

a. Accomplishments of the prior year evidencing progress toward implementation of the Plan, including: plans and studies completed; agreements executed; legislation adopted; permits applied for and received; grants applied for and received; rights-of-way and other lands purchased; designs completed; and construction activities undertaken;

b. Any recommendations for legislative action;

- c. Any recommended amendments or changes to the Plan; and
- d. Implementation steps to be undertaken during the upcoming year and the source of funding for those steps.

9. The Committee is authorized to call upon any department, office, division or agency of the State to supply such data, program reports and any other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Order. Each department, office, division or agency of the State is authorized, to the extent not inconsistent with law, to cooperate with the Committee in furnishing it with such information, personnel and assistance as necessary to accomplish the purposes of this Order.

10. This Order shall take effect immediately.

Issued October 12, 1989.

GOVERNOR'S MOBILITY PLAN
"CORRIDORS, SEGMENTS AND PROJECTS"
10/12/89

I. Allied Junction Corridor

Projects in segments from Sports Complex; southeast through Bergen Arches to northern terminus of New Jersey Turnpike/Hudson County Extension

Segment I-A—New Rail Spur from Bergen Line

- I-A.1 New Station.
- I-A.2 Crossing of Berry's Creek (north of Route 3, onto Sports Complex).
- I-A.3 New rail spur from existing Bergen Line to Sports Complex.

Segment I-B—Connection of Bergen and Main Lines

- I-B.1 Existing Bergen Line southeast across the Hackensack River.
- I-B.2 Connection of Main and Bergen Lines.
- I-B.3 Existing Main Line into Allied Junction.
- I-B.4 Conversion of abandoned Bergen Line railbed to roadway from Allied Junction to Seaview Drive and Meadowlands Parkway.

Segment I-C—Allied Junction Development

- I-C.1 Rail transfer station with Main/Bergen Lines and conversion of abandoned Bergen Line to roadbed.
- I-C.2 Additional trackage on Main Line (also known as the Secaucus Transfer).
- I-C.3 Improvements to Northeast Corridor (also known as the Secaucus Transfer).
- I-C.4 Rail transfer station over Amtrak's Northeast Corridor Line.
- I-C.5 Allied Junction Complex—4,000 parking spaces; hotel and offices; total 3.5 million sq. ft. (Private development).
- I-C.6 New Turnpike Interchange—between 15E and 16E, at Allied Junction.

Segment I-D—Allied Junction to Bergen Arches

- I-D.1 Abandoned Bergen Line right of way, converted to a roadbed between Allied Junction and the Bergen Arches.
- I-D.2 Grade separations and/or bridges at Penhorn Creek and Croxton Yard.
- I-D.3 Connection of Allied Junction & Bergen Arches with Routes 1 & 9 (Tonnele Ave.).

Segment I-E—Bergen Arches

- I-E.1 Rehabilitation of Bergen Arches.
- I-E.2 Fly-over Conrail at easterly end of Arches.
- I-E.3 Connecting ramps to 6th and 11th Streets and to South Busway/Waterfront Blvd.
- I-E.4 Connecting ramps to 11th Street and Waterfront Blvd. from Hudson County Turnpike Extension.

Segment I-F—Route 17 South to Route 280/Interchange 15W

- *I-F.1 Route 17 south from Route 3 to Route 280/Interchange 15W.
- *I-F.2 Abandoned rail right-of-way for Route 17 South Extension to Route 280 or Exit 15W of the Turnpike.

***Segment I-G—Route 3 Bridge over Berry's Creek**

Bridge rehabilitation and expansion from two lanes to three lanes in each direction.

II. Waterfront Corridor

Projects in segments from easterly end of Bergen Arches,

northward between the base of the Palisades and the Hudson River: to the entrance of the Lincoln Tunnel and northward to the North and South Tunnels and to the North Busway. This Corridor is currently the subject of a \$2M, 18 month formal UMTA Alternatives Analysis (AA).

Segment II-A—Right of Way at Base of Palisades (Now encumbered by Conrail's River Line; under contract to NJ TRANSIT)

- II-A.1 Interim roadway behind Hoboken from Hudson County Turnpike Extension to Weehawken.
- II-A.2 Permanent improvements behind Hoboken from Hudson County Turnpike Extension to Weehawken (Waterfront Blvd./South Busway).
- II-A.3 Waterfront Blvd.—Caven Point Road to Route 5.
- *II-A.4 Route 169/185—Bayonne Bridge to Caven Point Road and Route 440 (now under construction).

Segment II-B—Northern Branch

- II-B.1 Paterson Plank Road grade separation.
- II-B.2 Secaucus Road grade separation.
- II-B.3 Croxton Yard rail improvements.
- II-B.4 Marion Junction rail improvements.
- II-B.5 North Bergen Yard rail improvements.
- II-B.6 Purchase of Conrail's River Line and Weehawken Tunnel.

Segment II-C—Peplemover

- II-C.1 Bayonne to Hoboken Terminal.
- II-C.2 Hoboken Terminal to North Bergen Yard.
- II-C.3 Extension from North Bergen Yard to Sports Complex through relocated Interchange 17E.

Segment II-D—South busway to Lincoln Tunnel

Connection of South busway to Lincoln Tunnel.

Segment II-E—Lincoln Tunnel to North Busway

Connection of North busway to Lincoln Tunnel.

Segment II-F—NJ TRANSIT's Waterfront Connection

Connects the Northeast Corridor, North Jersey Coastline and Raritan Valley Lines (now under construction).

III. Twin Tunnels Corridor

Projects in segments from North busway/Waterfront Blvd. westerly through the existing South (Weehawken) and new

North Tunnels to the North Bergen Yard and relocated Interchange 17E. Inclusive of new alignment west of relocated 17E for a peplemover extension, new roadbed, and bridge replacement at Paterson Plank Rd. to the Sports Complex.

Segment III-A—South (Mass Transit Only) Tunnel—Existing “Weehawken Tunnel” under contract from Conrail to NJ TRANSIT

- III-A.1 Connection of easterly portal with Waterfront.
- III-A.2 South Tunnel rehabilitation.
- III-A.3 Connection of western portal to existing or new road system.
- III-A.4 Park 'n Ride at Wassil site.

Segment III-B—North Tunnel (New)

- III-B.1 Connection of easterly portal with Waterfront.
- III-B.2 Construction of 3-lane North Tunnel.
- III-B.3 Connection of western portal to existing or new road system.

Segment III-C—Connection of Westerly Portals of Twin Tunnels to Relocated Turnpike Interchange 17E

Crossing of Cromakill Creek by five lanes (2-South Tunnel/3-North Tunnel) inclusive of peplemover.

Segment III-D—Relocated Turnpike Interchange 17E

- III-D.1 Expanded Vince Lombardi Park 'n Ride.
- III-D.2 Construction of relocated Turnpike interchange.

Segment III-E—Peplemover Extension from Relocated Interchange 17E to Sports Complex

- III-E.1 Crossing of Hackensack River over Paterson Plank Rd. Bridge replacement.
- III-E.2 Peplemover connection on Sports Complex site with Commuter Rail from Allied Junction Corridor.

Segment III-F—Paterson Plank Road Bridge Replacement

- *III-F.1 Westerly connection to Turnpike Interchange 17W.
- *III-F.2 Replacement span over Hackensack River.
- *III-F.3 Easterly connection to Meadowlands Parkway.
- *III-F.4 Connection of Meadowlands Parkway Extension with relocated Turnpike Interchange 17E.

3 Corridors

19 Segments

55 Projects (combined into seven clusters)

*Added to original plan elements.

EXECUTIVE ORDER No. 219

WHEREAS, A scientific consensus exists that emissions of certain gases, including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons (hereinafter "CFCs"), and halons are causing significant changes in the composition of the Earth's atmosphere; and

WHEREAS, A scientific consensus also exists that these emissions are likely to cause significant changes in the Earth's climate, including overall warming, increased drought, an increase in the intensity of hurricanes and other major storms, as well as increased incidence of harmful ultraviolet radiation; and

WHEREAS, These climatic changes are predicted to result in increases in sea levels, geographic shifts in the habitats of many plants and animals, and the extinction of potentially large numbers of species; and

WHEREAS, Reductions in emissions of these gases can diminish the overall magnitude and rate of climatic changes, as well as reduce the depletion of stratospheric ozone; and

WHEREAS, Energy conservation can achieve significant reductions in emissions of carbon dioxide, a necessary byproduct of the combustion of fossil fuels and a major contributor to global climate change; and

WHEREAS, Protection of the social, economic and environmental interests of the citizens of New Jersey requires the State to implement policies and regulatory practices that will serve the dual purpose of reducing such emissions and of facilitating adaptation to those changes that are predicted to occur; and

WHEREAS, The public's understanding of the causes of global climate change and ozone depletion and possible responses thereto is essential to ensuring that appropriate steps are taken; and

WHEREAS, The public sector, including all departments, agencies and offices of State government, including State universities and colleges (hereinafter "State entities"), should provide an example to guide the private sector in the adoption of measures to minimize the contribution to climatic change from sources in New Jersey;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. State entities shall foster energy conservation to the maximum extent practicable, in order to reduce emissions of carbon dioxide and other gases that contribute to global climate change.

a. All State entities with responsibility for constructing, purchasing, leasing, operating or maintaining capital facilities and equipment shall employ state-of-the-art equipment for efficient heating, ventilation, air conditioning and lighting, and in other major energy using applications, where such equipment or techniques will result in lower costs over the lifetime of the equipment.

b. All State entities exercising regulatory authority over actions that directly or indirectly relate to the production or consumption of energy shall review their policies and regulatory practices to ensure that they provide maximum incentives designed to conserve energy and increase reliance upon sources of energy that contribute fewer emissions of those gases responsible for global climate change.

2. All State entities that use or purchase CFCs and halons or that use, purchase, or maintain equipment that contains CFCs or halons, shall investigate the use of all practicable and safe alternatives to those compounds and ensure that emissions and losses of those compounds, including those occurring during maintenance, are reduced to the maximum extent practicable.

3. The Department of Environmental Protection shall investigate the feasibility of regulatory controls to reduce the use and release of CFCs and halons in New Jersey and make recommendations for any necessary regulatory or legislative action.

4. All State entities with responsibility for the maintenance of State property shall promote the absorption of carbon dioxide by maximizing the planting of trees and ensuring at least one-for-one replacement (either on-site or elsewhere) for trees lost as a result of construction or other activity which requires or results in loss of trees.

5. All State entities with responsibility for policies or regulations affecting the location, construction or maintenance of public or private facilities (including residential developments) shall:

a. Ascertain the degree to which those facilities will be affected by predicted changes in sea level; and

b. Develop policies, in consultation with the general public and other governmental entities, to respond to such predicted changes in sea level.

6. All State entities with responsibility for the purchase or protection of land for the purposes of open space protection or related objectives shall, as appropriate, undertake such acquisition or protection activities in a manner that furthers the creation of corridors of linked public and private open spaces known as "greenways," which aid the adaptation of natural systems by providing corridors for migration as climatic conditions change.

7. All State entities shall review their programs designed to facilitate public awareness of environmental issues and revise such programs to ensure, to the maximum extent practicable, the effective communication of information that will enhance the public's understanding of the basic processes involved in global climate change, the causes of such change, and possible approaches to reducing and adapting to such change.

8. This Order shall take effect immediately.

Issued October 23, 1989.

EXECUTIVE ORDER No. 220

WHEREAS, The "Governor's Mobility Plan" (Plan) was developed through the cooperative efforts of numerous agencies and instrumentalities of State government, including the participation of the Director of the Hudson River Waterfront Transportation Office of New Jersey Transit; and

WHEREAS, Executive Order No. 218 establishes the "Governor's Mobility Plan Coordinating Committee" (Committee) to continue the planning process and to coordinate the efficient implementation of the Plan; and

WHEREAS, The Coordinating Committee would benefit from the expansion of its membership to include a representative of the Hudson River Waterfront Transportation Office of New Jersey Transit Corporation;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 218 is hereby amended to include the Director of the Hudson River Waterfront Transportation Office of

New Jersey Transit Corporation as a participant in the development of the Plan.

2. The membership of the Committee is hereby expanded to include the Director of the Hudson River Waterfront Transportation Office of New Jersey Transit Corporation.

3. Except as provided in sections 1 and 2 of this Executive Order, all other terms of Executive Order No. 218 shall remain in force and effect.

4. This Order shall take effect immediately.

Issued October 30, 1989.

EXECUTIVE ORDER No. 221

I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. November 24, 1989, the day following Thanksgiving, shall be granted as a day off to employees who work in the Executive Departments of State Government and who are paid from State funds or from federal funds made available to the State, whose functions, in the opinion of their appointing authority, permit such absence.

2. An alternate day off shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, preclude such absence on November 24, 1989.

Issued November 13, 1989.

EXECUTIVE ORDER No. 222

WHEREAS, Executive Order No. 83 created the Martin Luther King, Jr. Commemorative Commission (hereinafter referred to as the Commission); and

WHEREAS, The existence of the Commission was perpetuated by Executive Orders Nos. 94 and 131; and

WHEREAS, Through my signing of P.L.1989, c.188, on September 26, 1989, a permanent Martin Luther King, Jr. Commemorative Commission was established; and

WHEREAS, With the creation by statute of a permanent Commission, it is no longer necessary for the Commission to operate by virtue of the authority of Executive Order;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. Executive Orders Nos. 83, 94 and 131, now superseded by P.L.1989, c.188, are hereby rescinded.

2. This Order shall take effect upon the organizational meeting of the Martin Luther King, Jr. Commemorative Commission established by P.L.1989, c.188.

Issued November 16, 1989.

EXECUTIVE ORDER No. 223

WHEREAS, Executive Order No. 72 issued on May 24, 1984 created a Governor's Council on the Prevention of Mental Retardation; and

WHEREAS, The Council completed a study evaluating the services needed to prevent mental retardation and developmental disabilities and made recommendations in a report to the Administration; and

WHEREAS, As a result of that report, P.L. 1987, c. 5 was enacted establishing a permanent Office for Prevention of Mental Retardation and Developmental Disabilities within the Department of Human Services; and

WHEREAS, The Governor's Council on the Prevention of Mental Retardation was renamed the Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities by Executive Order No. 178 on July 30, 1987; and

WHEREAS, The Council, which has been pursuing its mandate in accordance with these Orders, is set to expire on December 31, 1989; and

WHEREAS, The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities should continue to serve as an advisory council to the Commissioner of Human Services and to the Office for Prevention of Mental Retardation and Developmental Disabilities;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The Governor's Council on the Prevention of Mental Retardation and Developmental Disabilities is hereby extended for a period of one year and shall expire on December 31, 1990.
2. Representation on the Council shall be expanded to include the Public Advocate or his designee.
3. All terms and provisions of Executive Orders Nos. 72 and 178 shall remain in force and effect except as expressly modified herein.
4. This Order shall take effect immediately.

Issued November 22, 1989.

EXECUTIVE ORDER No. 224

WHEREAS, The land along the New Jersey/New York border from the Delaware River to the Hudson River (hereinafter referred to as the Skylands region) is an area of significant natural beauty that contains numerous cultural and historic sites and possesses substantial recreational opportunities; and

WHEREAS, Federal, State, county and local governments in both New Jersey and New York own approximately 136,613 acres in this region, managing them as parks, preserves, water supply areas, historic sites and open space; and

WHEREAS, These protected areas offer citizens and tourists throughout New Jersey and New York numerous cultural and recreational opportunities by providing both physical and visual access to the natural resources of the region; and

WHEREAS, In 1987, the President's Commission on American Outdoors called for a network of greenways across the United States

to facilitate the preservation of natural resources for recreational and open space purposes; and

WHEREAS, Greenways provide a mechanism for achieving these preservation goals by creating unbroken corridors of forests, streams, lakes, reservoirs, rivers and public trust lands which protect valuable wetlands, scenic and recreation areas and wildlife habitats, as well as shaping community development and enhancing community pride and beauty; and

WHEREAS, A Skylands Greenway would link the parks, historic sites, wetlands, wildlife habitats, streams, rivers, reservoirs, watersheds, trails, scenic, natural and agricultural lands and other protected areas unique to the region between the Delaware and Hudson Rivers for the enjoyment of future generations; and

WHEREAS, It is in the interest of New Jersey to create a Task Force to study the viability of establishing a Skylands Greenway to protect the unique qualities of the Skylands region;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The creation of a Skylands Greenway Task Force (hereinafter referred to as the "Task Force") to consist of nine members. The makeup of the Task Force shall be as follows:

a. Four public members with expertise in the preservation of natural resources and open space, to be appointed by the Governor of the State of New Jersey.

b. A representative from the North Jersey District Water Supply Commission.

c. Three representatives, one each from the neighboring counties of Bergen, Passaic and Sussex, each to be chosen by the respective County's Board of Chosen Freeholders.

d. The Commissioner of Environmental Protection, or his/her designee.

2. In addition to these nine members, the Task Force may invite the following representatives to participate:

a. Two representatives, one each from New York's Orange and Rockland Counties, each to be chosen by the respective County's governing body.

b. The Commissioner of the New York Department of Environmental Conservation and/or of New York's State Office of Parks, Recreation and Historic Preservation, or their designees.

c. A representative appointed by the National Park Service.

d. A representative appointed by the United States Fish and Wildlife Service.

e. A representative from the United States Soil Conservation Service (representing agricultural interests).

3. The Task Force may call to its assistance, and avail itself of the services of, any organizations with involvement and/or interest in the Skylands Greenway. If requested by the Task Force, the New Jersey Department of Environmental Protection shall provide staff support. The Task Force may call upon the State Planning Commission and Office of State Planning to provide any information deemed necessary, including statistical and planning data.

4. The New Jersey Department of Environmental Protection is authorized and directed, to the extent not inconsistent with law, to cooperate with the Task Force and to furnish it with such information, personnel and assistance as necessary to accomplish the purposes of this Order.

5. The Task Force shall meet as soon as practicable and commence a study which:

a. Shall include each county along the New York/New Jersey border from the Hudson River to the Delaware River.

b. Shall include, but not be limited to, planning and recommending protected linkages of natural, cultural and recreational resources relating to the Greenway and planned in such a way as to enhance indigenous industries such as agriculture and tourism.

6. The Task Force shall conclude its study within one year by filing a report with the Governor of New Jersey, the National Park Service and those Congressional Committees with oversight responsibilities for the establishment of a Skylands Greenway. This report shall include:

a. A brief and general historical overview regarding the lands considered for inclusion in the Greenway designation.

b. An inventory of all public and private lands within the Skylands region, specifying the present use of such lands, facilities exist-

ing thereon for public recreation, and all natural, scenic, cultural, fish and wildlife and other resources in the region.

c. The agency from each jurisdiction managing existing natural resources.

d. A general review of all watershed lands which may contribute to the establishment of the Greenway.

e. Any recommendations, including draft actions, for designation of the lands and waters as part of the proposed Greenway.

7. This Order shall take effect immediately.

Issued December 20, 1989.

REORGANIZATION PLANS

(1773)

Reorganization Plans Department of Human Services

NOTICE OF A PLAN FOR THE REORGANIZATION AND COORDINATION OF RESPONSIBILITY FOR THE DELIVERY OF CERTAIN SERVICES TO PERSONS WHO ARE DEAF OR HARD OF HEARING WITHIN THE DEPARTMENT OF HUMAN SERVICES

Take notice that on February 27, 1989, Governor Thomas H. Kean hereby issues the following Reorganization Plan (No. 001—1989) to coordinate and consolidate the delivery of certain services to persons who are deaf or hard of hearing in a single department by transferring the Division of the Deaf in the Department of Labor to the Department of Human Services, while retaining certain employment and training services for this population in the Department of Labor.

General Statement of Purpose

Pursuant to its existing statutory authority, it is the duty of the Division of the Deaf to perform the collection and tabulation of statistics pertaining to the deaf, their employment and welfare; ascertain by annual review of the New Jersey job market what trades or occupations are most suitable for the deaf; arrange for Statewide vocational retraining as necessary; create new fields of employment to which the deaf may adapt themselves and place deaf persons in such lines of employment; and maintain an interpreter referral service. In addition, the Division of the Deaf may investigate and file complaints with the Division of Civil Rights in the Department of Law and Public Safety on behalf of deaf persons and assist them in any subsequent proceedings involving acts of discrimination against them by employers, industries, corporations, or organizations with whom they may seek employment, including the State. The Division is also charged with promoting the general welfare of the deaf population within the State, increasing the employability of deaf persons, and seeking the cooperation of State departments and agencies so that deaf persons may be employed in State government, or any subdivision thereof. Finally, this Division shall make reports and recommendations as necessary to advance the best interests of the Division and of deaf persons in the State in general.

The purpose of this Reorganization Plan is to consolidate the delivery of social services to persons who are deaf or hard of hearing within a single State agency by transferring the Division of the Deaf in the Department of Labor to the Department of Human Services. This Plan will enable deaf and hard of hearing persons to benefit from better access to social services and activities offered by the Department of Human Services. Specifically, these services are currently provided within the Department of Human Services by the Division of Developmental Disabilities, Division of Mental Health and Hospitals, Division of Youth and Family Services, Division of Medical Assistance and Health Services, Division of Public Welfare, Commission for the Blind and Visually Impaired and the Office of Education. This transfer will also allow greater coordination between these various divisions and offices and the State's deaf and hard of hearing population. In addition, the Department of Human Services will be able to better coordinate the delivery of these social services with activities and services provided to the deaf or hard of hearing by other State departments. These various other activities and services include vocational training, vocational rehabilitation, educational services and investigatory activities. Finally, this transfer will advance the sharing of expertise among State officials involved in the delivery of services to persons who are deaf or hard of hearing.

This Reorganization Plan also, however, recognizes the Department of Labor's continuing role in the delivery of employment and training services to the deaf and hard of hearing population. To that end, this reorganization transfers certain existing employment and training functions of the Division of the Deaf to the Division of Vocational Rehabilitation in the Department of Labor.

In accordance with the provisions of the "Executive Reorganization Act of 1969," P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to each reorganization included in this Plan that each is necessary to accomplish the purposes set forth in section 2 of that Act and will do the following:

1. It will promote better execution of the laws and more effective management by the Executive Branch of its departments by consolidating the delivery of social services to the deaf and hard of hearing population within one State agency.
2. It will promote economy and efficiency in the operation of the Executive Branch through a sharing of expertise among State officials involved in the delivery of services to deaf or hard of hearing persons.

3. It will group, coordinate, and consolidate functions of the Executive Branch in a more consistent and practical way.

4. It will eliminate overlapping and duplication of effort by locating these entities for the delivery of social services to the deaf and hard of hearing within one department.

The provisions of the Reorganization Plan are as follows:

I. 1.a. The Division of the Deaf in the Department of Labor, created pursuant to P.L.1941, c.197, as amended by P.L.1977, c.166, §2 (C.34:1-69.1), together with all its functions, powers and duties as set forth in P.L.1941, c.197, as amended by P.L.1977, c.166, §4 (C.34:1-69.3), is continued and, except as otherwise indicated in Section III of this Plan, this Division is transferred to and constituted the Division of the Deaf and Hard of Hearing in the Department of Human Services.

b. The Division of the Deaf and Hard of Hearing shall be under the immediate supervision of a director who shall administer the work of the Division under the direction and supervision of the Commissioner of Human Services and shall perform such other functions of the Department as the Commissioner may prescribe.

c. The Commissioner shall organize the work of the Division of the Deaf and Hard of Hearing and establish therein such administrative subdivisions as he may deem necessary, proper and expedient.

d. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of the Deaf in the Department of Labor, the same shall mean and refer to the Division of the Deaf and Hard of Hearing in the Department of Human Services; except that with regard to the functions, powers and duties contained in Section III of this Plan, references to the Division of the Deaf in the Department of Labor shall mean and refer to the Division of Vocational Rehabilitation in the Department of Labor.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will confer on the Department of Human Services the necessary authority to implement the important goals of coordinating and integrating the delivery of social services to persons who are deaf or hard of hearing. This Plan will provide the State's deaf and hard of hearing population with greater access to the social services and activities currently provided by the Department of Human Services.

II. 1.a. The Advisory Council on the Deaf in the Division of the Deaf in the Department of Labor, created pursuant to P.L.1977, c.166, §8 (C.34:1-69.1a), together with all its functions, powers and duties as set forth in P.L.1977, c.166, §8 (C.34:1-69.1a), is continued and transferred to and constituted the Advisory Council on the Deaf and Hard of Hearing in the Department of Human Services.

b. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Advisory Council on the Deaf in the Department of Labor, the same shall mean and refer to the Advisory Council on the Deaf and Hard of Hearing in the Department of Human Services.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will provide the Commissioner of Human Services with a body that can advise him regarding the accessibility of social services to the State's deaf and hard of hearing population.

III. The following functions, powers and duties heretofore exercised by the Division of the Deaf in the Department of Labor are hereby transferred to the Division of Vocational Rehabilitation in the Department of Labor: collection and tabulation of statistics pertaining to the deaf, their employment and welfare; annual review of the New Jersey job market to determine what trades or occupations are most suitable for the deaf; arrangement for Statewide vocational retraining as necessary; and creation of new fields of employment to which the deaf may adapt themselves and placement of deaf persons in such lines of employment.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will group, coordinate and consolidate functions of the Executive in a more consistent and practical way by retaining certain employment and training functions in the Department of Labor. This Plan will, therefore, provide the State's deaf and hard of hearing population with continued access to the employment and training services currently offered by the Department of Labor.

IV. All transfers directed by this Act shall be made in accordance with the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

All acts and parts of acts inconsistent with any of the provisions of this Reorganization Plan are superseded to the extent of such inconsistencies. A copy of this Reorganization Plan was filed on

February 27, 1989 with the Secretary of State and the Office of Administrative Law. This Plan shall become effective in 60 days on April 28, 1989 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than April 28, 1989 should the Governor establish such a later date for the effective date of the Plan by Executive Order.

TAKE NOTICE that this Reorganization Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the pamphlet laws under a heading of "Reorganization Plans."

Filed February 27, 1989.

Effective April 28, 1989.

Reorganization Plans The Board of Public Utilities

NOTICE OF A PLAN FOR THE REORGANIZATION AND COORDINATION OF RESPONSIBILITY FOR CERTAIN ENERGY MATTERS WITHIN THE BOARD OF PUBLIC UTILITIES

Take notice that on June 15, 1989, Governor Thomas H. Kean hereby issues the following Reorganization Plan (No. 002—1989) to provide for the increased coordination and integration of the State's energy regulation, planning and policy formation by the State through the transfer of the Division of Energy Planning and Conservation from the Department of Commerce, Energy and Economic Development to the Board of Public Utilities.

General Statement of Purpose

Based on present statutory authority, it is the responsibility of the Division of Energy Planning and Conservation, among other things, to gather, analyze and evaluate energy data, prepare the State Energy Master Plan for adoption by the Energy Master Plan Committee, determine the need for and proper siting of energy facilities,

administer the Certificate of Need process for electric facilities, administer the Energy Conservation Bond Fund, administer energy emergency planning and enforce the Comprehensive Energy Conservation Program.

The purpose of this reorganization is to coordinate the energy supply policies of this State with the regulation of energy companies as public utilities. This integration will ensure that all sectors of the State's economy are supplied with the most reasonably priced sources of energy consistent with maintaining environmental standards. This Plan will also unite the planning and regulatory functions of State government with respect to cogeneration and independent power producers to create a more predictable environment for investment decisions in energy facilities by the public utilities and private sector. This Plan will help create an active process for the planning of how to meet energy needs in the State.

In accordance with the provisions of the "Executive Reorganization Act of 1969," P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to each reorganization element included in this Plan, and detailed herein, that each is necessary to accomplish the purposes set forth in section 2 of that Act and that the reorganization will accomplish the following purposes:

1. Promote more effective management of the Executive Branch and its departments because it will coordinate the planning and regulation of energy in one agency;
2. Reduce expenditures by more closely aligning similar functions;
3. Eliminate duplication and overlapping of certain functions; and
4. Result in the integration of energy, economic and environmental planning and coordination.

The provisions of the Reorganization Plan are as follows:

I. 1.a. The Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development created pursuant to P.L.1977, c.146, §5.2 (C.52:27F-7), and amended by P.L.1978, c.140, §1 (C.52:27H-20.1) together with all its existing functions, powers and duties, including those established by P.L.1983, c.115; P.L.1983, c.559; P.L.1987, c.365; P.L.1987, c.231; P.L.1981, c.302; P.L.1980, c.68; P.L.1971, c.198, §15 (C.40A:11-15) as amended by P.L.1981, c.551; P.L.1977, c.146, §16 (C.52:27F-18);

P.L.1977, c.146, §12 (C.52:27F-14); P.L.1977, c.146, §13 (C.52:27F-15); N.J.S.18A:18A-42 as amended by P.L.1984, c.49, is continued and this Division is transferred to and designated the Division of Energy Planning and Conservation within the Board of Public Utilities.

b. The Division of Energy Planning and Conservation shall be under the supervision of the Director appointed pursuant to C.52:27H-20.1, who shall administer the work of the Division under the supervision and direction of the Board of Public Utilities and perform such other functions as the Board of Public Utilities may prescribe.

c. Whenever in any statute, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise reference is made to the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development, the same shall mean the Division of Energy Planning and Conservation within the Board of Public Utilities.

I find that this reorganization is necessary to accomplish the purposes set forth in P.L.1969, c.203, §2. Specifically, as mentioned before, this reorganization will coordinate the energy supply policies of this State with environmental goals, utility rates and tariffs. Some of the functions, powers and duties transferred include:

a. The responsibility and authority of the Division of Energy Planning and Conservation to intervene in proceedings of State instrumentalities which regulate energy producers or distributors as set forth in P.L.1977, c.146, §13 (C.52:27F-15);

b. The responsibility and authority requiring the periodic reporting by energy industries of energy information, set forth in P.L.1977, c.146, §16 (C.52:27F-18); and

c. The responsibility and authority for energy emergency planning and preparedness.

II. 1.a. The Advisory Council on Energy Planning and Conservation to the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development created by P.L.1977, c.146, §10 (C.52:27F-12), together with all its functions, powers and duties set forth in P.L.1977, c.146, §11 (C.52:27F-13), is continued and transferred to and designated the Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation in the Board of Public Utilities.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial proceeding or otherwise reference is made to the Advisory Council on Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development, the same shall mean the Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation within the Board of Public Utilities.

I find that this reorganization is necessary to accomplish the purposes set forth in P.L.1969, c.203, §2. Specifically, as a result of this reorganization, the Advisory Council on Energy Planning and Conservation will continue to advise the Director of the Division of Energy Planning and Conservation with respect to the regulated and nonregulated elements of energy supply and demand.

III. 1. The responsibility of the Commissioner of Commerce, Energy and Economic Development to serve on and act as chairperson for the Energy Master Plan Committee established by P.L.1987, c.365, §14, is hereby transferred to the President of the Board of Public Utilities. Assistance provided to the Energy Master Plan Committee by the Division of Energy Planning and Conservation within the Department of Commerce, Energy and Economic Development shall hereinafter be provided by the Division of Energy Planning and Conservation within the Board of Public Utilities.

I find that this reorganization is necessary to accomplish the purposes set forth in P.L.1969, c.203, §2. Specifically, this reorganization will ensure that the Energy Master Plan will continue to guide all sectors of the State in planning and implementing least-cost planning strategies for meeting our energy service needs.

IV. 1. All property, records and personnel of the Division of Energy Planning and Conservation shall be transferred with the Division of Energy Planning and Conservation to the Board of Public Utilities.

I find that this reorganization is necessary to accomplish the purposes set forth in P.L.1969, c.203, §2. Specifically, this transfer will ensure the continued efficient operation of the Division of Energy Planning and Conservation.

V. 1. All unexpended balances of appropriations, and of other funds, shall be transferred with the Division of Energy Planning and Conservation to the Board of Public Utilities. Furthermore, all unexpended balances so transferred may only be used for the purposes originally appropriated.

I find that this reorganization is necessary to accomplish the purposes set forth in P.L.1969, c.203, §2. Specifically, this transfer will ensure that monies appropriated for either projects, programs, planning or other endeavors may be spent for those purposes originally appropriated.

VI. 1. The enforcement and penalty authority section set forth in section 19 (C.52:27F-21), section 21 (C.52:27F-23) and section 22 (C.52:27F-24) of P.L.1977, c.146, is hereby transferred to the Board of Public Utilities.

I find that this reorganization is necessary to accomplish the purposes set forth in P.L.1969, c.203, §2. Specifically, the transfer of this enforcement authority is necessary to best administer and execute effectively the other powers and responsibilities transferred to the Board of Public Utilities by this Plan.

VII. 1. All transfers directed by this Act shall be made in accordance with the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

All acts and parts of acts inconsistent with any of the provisions of the Reorganization Plan are superseded to the extent of such inconsistencies. A copy of this Reorganization Plan was filed on June 15, 1989 with the Secretary of State and the Office of Administrative Law. The Plan shall become effective in 60 days, on August 14, 1989, unless disapproved by each House of the Legislature by the passage of a Concurrent Resolution stating in substance that the Legislature does not favor this Reorganization Plan, or that at a date later than August 14, 1989, should the Governor establish such a later date for the effective date of the Plan by Executive Order.

TAKE NOTICE that this Reorganization Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the pamphlet laws under a heading of "Reorganization Plans."

Filed June 15, 1989.

Effective August 14, 1989.

INDEX

(1785)

AGRICULTURE

- Agricultural development area, municipally approved program, petitions, action required within 180 days, amends C.4:1C-21, Ch.242.
- “Burlington County Transfer of Development Rights Demonstration Act,” C.40:55D-113 et seq., amends C.4:1C-31 and 4:1C-32, Ch.86.
- Development easements, conveyance procedures; changed, amends C.4:1C-24 et al., Ch.310.
- Farmland, potential, inventory and leasing of State-owned, required, C.4:1C-44 et seq., Ch.79.
- Farmland preservation program; State, right of first refusal, C.4:1C-38 et seq., Ch.28.
- Low-interest county farm loan programs; establishment authorized, amends title of P.L.1987, c.34 and C.40:23-12.2 et seq., Ch.158.
- Wineries, regulations for production, sale, shipping of wines; changed, amends R.S.33:1-10 et al., Ch.209.

ALCOHOLIC BEVERAGES

- Governor’s Council on Alcoholism and Drug Abuse, established, C.26:2BB-1 et seq., amends C.26:2B-32 et al., repeals C.26:2B-10 et al., Ch.51.
- Plenary retail consumption license, additional, issuance by Borough of Franklin Lakes; authorized, Ch.250.
- Wineries, regulations for production, sale, shipping of wines; changed, amends R.S.33:1-10 et al., Ch.209.

ANIMALS

- Animal Population Control Program, eligibility standards; changed, amends C.4:19A-2, Ch.238.
- Dogs, vicious or potentially dangerous, regulations concerning; established, C.4:19-17 to 4:19-37, Ch.307.
- Fighting, baiting; third degree crime, C.4:22-48.1, amends R.S.4:22-24 et al., Ch.35.
- Local board of health, laboratory examination for rabies on animal dying during confinement period; permitted, amends R.S.26:4-86, Ch.297.
- Pilot clinic for spaying and neutering, fee increase, amends C.4:19A-11, Ch.93.

APPROPRIATIONS**Agriculture, Department:**

Inventory, leasing of State-owned land suitable for farming,
C.4:1C-44 et seq., \$75,000, Ch.79.

Annual, Ch.122.

Attorneys' fees, costs, claims against Legislature, certain, \$1.00,
Ch.75.

Camden High School Band Trip to England, \$50,000, Ch.278.

Claims against the State, payment of, \$100,041, Ch.255.

Commerce, Energy and Economic Development, Department:

Energy conservation grant program, HMFA funded housing,
certain, \$10,000,000, Ch.195.

Energy conservation improvement program for farms,
\$3,000,000, Ch.139.

Commission to study services and programs available to hearing
impaired children, \$30,000, Ch.154.

Community Affairs, Department:

Heating systems, retrofit, install, housing, certain,
\$10,000,000, Ch.195.

Correctional Facilities Construction Fund of 1987; county as-
sistance, \$9,926,393, Ch.60.

Corrections, Department:

Alternative programs to detention, incarceration of juveniles,
\$2,500,000, Ch.197.

Expansion of facilities, certain, \$21,985,000, Ch.318.

Education, Department:

Focus on Literacy, Inc., \$20,000, Ch.97.

Environmental Protection, Department:

Acquisition of Pyramid Mountain for recreation and con-
servation, \$4,560,000, Ch.144.

Hazardous Waste Advisory Council, \$15,000, Ch.243.

Historic Trust, \$50,000, Ch.62.

Loans and grants from Green Acres bond acts to local govern-
ments, recreation and conservation, \$35,000,000, Ch.194.

Medical waste management, with Department of Health,
\$1,250,000, Ch.34.

State aid, Cape May Inlet to Lower Township, beach resto-
ration, \$1,500,000, Ch.14.

Wastewater treatment system projects, loans and grants to
local governments, Ch.189.

Water supply, watershed management, bistate conference,
\$10,000, Ch.76.

APPROPRIATIONS (Continued)

Farmland Preservation Fund, from; to Department of Agriculture, land, easement purchases; soil, water conservation, \$40,000,000, Ch.44.

Governor's Council on Alcoholism and Drug Abuse, \$300,000, Ch.51.

Health, Department:

Birth defects, genetic diseases; diagnosis, treatment, \$750,000, Ch.25.

Cooley's Anemia, programs for children, \$90,000, Ch.74.

Cystic fibrosis, financial assistance to adults with, \$600,000, Ch.270.

Drug abuse prevention and treatment programs, \$2,000,000, Ch.51.

Medical waste management, with Department of Environmental Protection, \$1,250,000, Ch.34.

Medicare/Long-term care information system, \$82,700, Ch.206.

Higher Education, Department:

"C. Clyde Ferguson Law Scholarship Act of 1989," \$100,000, Ch.259.

Human Services, Department:

Facilities Construction Fund, \$3,480,000, Ch.55.

Low income energy assistance program, from Petroleum Overcharge Reimbursement Fund, \$20,000,000, Ch.317.

Medicaid nursing home reimbursement rate supplement, \$15,000,000, Ch.18.

Law and Public Safety, Department:

Middle Atlantic-Great Lakes Organized Crime Enforcement Network, federal funds, \$2,500,000, Ch.45.

Legal expenses, certain, criminal actions brought against State officers, \$100,000, Ch.77.

Mentally Handicapped, Association for the Advancement of the, \$25,000, Ch.5.

Military and Veterans' Affairs, Department:

Agent Orange Commission, \$100,000; Pointman Study expansion, \$800,000, Ch.193.

Division of Veterans' Administrative Services, transfer of veterans' remains to Arneytown Veterans' Memorial Cemetery, \$17,000, Ch.135.

MIA-POW flags, purchase of, \$2,000, Ch.235.

9-1-1 Emergency Telephone System Account, \$9,000,000; 9-1-1

APPROPRIATIONS (Continued)

- Commission and Office of Emergency Telecommunications Services, \$250,000, Ch.3.
- New Jersey Commission on Science and Technology, advanced technology centers, \$6,375,000, Ch.176.
- New Jersey Wastewater Treatment Trust, loans to local governments for wastewater treatment system projects, authorized, Ch.190.
- 1990 Gubernatorial Inaugural Commission, \$95,000, Ch.282.
- Ocean County, Crossroads drug/alcohol pilot program, \$235,000, Ch.8.
- State, Department:
 - "Hazardous Discharge Bond Act," "Hazardous Discharge Bond Act of 1986," publication expenses, \$5,000, Ch.182.
 - New Jersey history film series, \$153,400, Ch.345.
 - "Open Space Preservation Bond Act of 1989," publication expenses, \$5,000, Ch.183.
 - Publication of History of the New Jersey State House, New Jersey History Pamphlet Series, Black Migration Research Project, \$131,000, Ch.346.
 - "Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989," publication expenses, \$5,000, Ch.184.
 - State Council on the Arts, various cultural center development projects, \$28,064,000, Ch.349.
 - "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," publication expenses, \$5,000, Ch.181.
- State Employment and Training Commission, \$200,000, Ch.293.
- State Planning Commission, economic assessment of State Development and Redevelopment Plan, \$200,000, Ch.332.
- Supplemental, FY 90, various departments, \$108,900,000, Ch.124.
- Transportation, Department:
 - New Jersey Transit Corporation, \$6,000,000, Ch.102.
 - "New Jersey Transportation Development District Act of 1989," \$250,000, Ch.100.
 - State highway access management code, development, \$300,000, Ch.32.
- Treasury, Department:
 - Division of Taxation, sales tax administration changes, \$750,000, Ch.350.
- Uncompensated Care Trust Fund, from; to Department of the Treasury, administrative functions, \$150,000, Ch.1.

APPROPRIATIONS (Continued)

Violent Crimes Compensation Board, establishment of child and family counseling unit, \$95,000, Ch.322.

AUTHORITIES

Delaware River and Bay Authority:

Compact modified, amends C.32:11E-1 and 32:11E-2, Ch.192.

Public hearings for project approval, required; toll increases, regulated, C.32:11E-1.1 et seq., Ch.191.

Passaic Valley Sewerage District, commissioners to impose civil penalty, seek injunctive relief for violations, certain; permitted, amends C.58:14-35, Ch.237.

BANKING

Banking institution subsidiaries, certain, engaging in interactions on behalf of each other, certain; permitted, C.17:9A-19.2, Ch.245.

“Consumer Loan Act”; “small loan law,” re-entitled; maximum increased to \$15,000, amends R.S.17:10-1 et al., Ch.38.

Corporations, certain, acting as fiscal, transfer agents; permitted; registration with Department of Banking, C.17:9A-213.2, amends C.17:9A-213, Ch.262.

Mutual State association holding companies, formation, operation; permitted, C.17:12B-292 et seq., Ch.165.

New Jersey Shareholders’ Protection Act, applicability, amends N.J.S.14A:6-1 et al., Ch.106.

Secondary mortgage licensees, certain, use of name of bank, bank holding company in advertising; permitted, exemption from licensure, amends C.17:11A-36 and 17:11A-46, Ch.312.

Secondary mortgage loans, closure at attorney’s office; permitted, amends C.17:11A-46, Ch.304.

BONDS

County parks, issuance of bonds, other obligations; authorized, subject to referendum, C.40:37-95.10n et seq., Ch.179.

“Hazardous Discharge Bond Act,” “Hazardous Discharge Bond Act of 1986,” amended, Ch.182.

“New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bond Act of 1989,” Ch.180.

“Open Space Preservation Bond Act of 1989,” Ch.183.

“Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989,” Ch.184.

BONDS (Continued)

"Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," Ch.181.

BRIDGES

"New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bond Act of 1989," Ch.180.

CHILDREN

Child care centers, certain, location in nonresidential municipal districts; permitted, C.40:55D-66.6, Ch.286.

Interstate Compact on the Placement of Children, C.9:23-5 to 9:23-17, Ch.284.

Out of home placement by courts, exhaustion of alternative measures; required, amends C.2A:4A-87, Ch.305.

Parents, foster, adoptive; approval, provisional, permitted, C.30:4C-26.9, Ch.21.

Victims, sexual assault and certain abuse, disclosure of identity; prohibited, disorderly persons offense; C.2A:82-46, Ch.336.

CIGARETTES

School drug education, prevention, intervention programs, inclusion of tobacco; required, C.18A:36-32, amends C.18A:40A-1 to 18A:40A-5, Ch.225.

CIVIL ACTIONS

AIDS, actions by aggrieved persons for unauthorized disclosure of patient records, damages, etc., C.26:5C-5 to 26:5C-14, Ch.303.

Immunity:

Library trustees, commissioners, granted, C.2A:53A-7.3, Ch.171.

Limited, owners, lessees, occupants of premises with public access, C.2A:42A-8, Ch.172.

Limited, permitted; common interest communities, certain; from unit owners, C.2A:62A-12 et seq., Ch.9.

Local emergency planning committee members, certain; granted, C.2A:62A-15, Ch.351.

Nonprofit cemetery corporations, board members, volunteers, granted, amends C.2A:53A-7.1, Ch.249.

Nonprofit corporations to encourage economic development, certain, volunteers; exempted, amends C.2A:53A-7.1, Ch.283.

CIVIL ACTIONS (Continued)

Nonprofit corporations, trustees and officers, certain circumstances, amends N.J.S.15A:2-8 et al., Ch.260.

Police officers, municipalities, from lawsuits by persons injured after release from custody on drunk driving offenses; granted, C.59:5-6, Ch.325.

Vietnam Veterans' Memorial Committee, members, volunteers, exemption from liability for damages, certain conditions, Ch.174.

COLLEGES AND UNIVERSITIES

"C. Clyde Ferguson Law Scholarship Act of 1989," C.18A:71-40.1 to 18A:71-40.7, Ch.259.

Council of County Colleges, reorganized; representation on State Board of Higher Education changed; payment of dues by county colleges, required, C.18A:64A-28.1 et seq., amends N.J.S.18A:3-6 et al., Ch.141.

Garden State Graduate Fellowships, seven dedicated to "Challenger" astronauts, C.18A:71-26.4 to 18A:71-26.18, Ch.288.

Guaranteed student loans, overdue, payroll deduction program for institution, authority employees, certain; included, amends C.18A:72-23, Ch.327.

Police officers, certain; training cost reimbursement, by new employer, C.18A:6-4.12, amends C.40A:14-178, Ch.40.

Ramapo College; property, real, certain; sale authorized, Ch.20.

State Board of Higher Education, required meetings, changed, amends N.J.S.18A:3-10, Ch.196.

Student health insurance, mandated, C.18A:62-14, Ch.1.

COMMERCIAL TRANSACTIONS

Uniform Commercial Code; securities, uncertificated, uniform rules; N.J.S.12A:8-108 et al., amends N.J.S.12A:1-201 et al., Ch.348.

COMMISSIONS

Commission to study services and programs available to hearing impaired children, report of findings and recommendations, required, Ch.154.

Educational services commissions, structure, operations; changed, amends C.18A:6-51 et al., repeals C.18A:6-62.1, Ch.254.

Hackensack Meadowlands Development:

Approval; penalty provisions, strengthened, amends C.13:17-19, Ch.27.

COMMISSIONS (Continued)

- Intermunicipal tax-sharing, modified, C.13:17-67.1, amends C.13:17-61 et al., Ch.26.
- Martin Luther King, Jr. Commission; established, C.52:9Z-1 to 52:9Z-5, Ch.188.
- New Jersey Corporate and Business Law Study Commission, created, C.1:14-12 to 1:14-15, Ch.163.
- 1990 Gubernatorial Inaugural Commission; established, Ch.282.
- Port Authority In-Lieu-of-Tax Payment Study Commission, established, J.R.7.
- Real Property Recording Study Commission; established, Ch.289.
- Reflectorized License Plate Selection Commission, created, C.39:3-33.9, Ch.202.
- State Commission of Investigation, statutory authorization, extended, Ch.143.
- State Employment and Training Commission; established, C.34:15C-1 to 34:15C-16, amends C.52:18A-129 et al., Ch.293.
- State House Commission, creation of Subcommittee on Green Acres Properties in, mandated, C.52:20-18.1 to 52:20-18.6, Ch.241.
- The Advisory Commission on Women Veterans of New Jersey, established in the Department of Military and Veterans' Affairs, amends P.L.1987, c.194, s.1, Ch.257.
- Time period to begin when quorum of members appointed, C.52:14-14.1, amends R.S.52:14-14, Ch.166.
- Waterworks, water commission, certain, membership increased; terms defined, salaries set, C.40:62-110.1, Ch.145.

COMMUNICATIONS

- Alternate operator telephone service providers, regulations, establishment; required, C.48:17-23 and 48:17-24, Ch.337.
- New Jersey Public Broadcasting Authority, funding of emergency broadcasts, conditions established, C.48:23-11 et al., amends C.52:14E-4 and 52:14E-8, Ch.133.
- Paging devices, sale, possession; regulated, C.2C:33-18 to 2C:33-20, Ch.232.

CONSUMER AFFAIRS

- "Consumer Loan Act"; "small loan law," re-entitled; maximum increased to \$15,000, amends R.S.17:10-1 et al., Ch.38.
- "Real Estate Sales Full Disclosure Act," C.45:15-16.27 to 45:15-16.49, repeals C.45:15-16.3 et seq., Ch.239.

CORPORATIONS

- Address, complete, filing with Secretary of State; required, C.14A:4-6, amends N.J.S.14A:2-7, Ch.175.
- Board of directors, consideration of decisions, affected parties, certain, permitted, amends N.J.S.14A:6-1 et al., Ch.106.
- Fiscal transfer agent, certain corporations to act as; permitted; registration with Department of Banking, C.17:9A-213.2, amends C.17:9A-213, Ch.262.
- Officers, certain; liability, civil, limited; "sunset" provision eliminated, amends N.J.S.14A:2-7 et al., repeals P.L.1987, c.35, s.4 et al., Ch.17.
- Real estate investment trusts, operation as corporations, permitted, amends C.54:10A-4, Ch.59.
- Share rights or options, validity under State law, clarified, amends N.J.S.14A:7-7, Ch.107.

CORRECTIONS

- Alternative programs to detention, incarceration of juveniles; established, C.30:1B-26 et seq., Ch.197.
- Juveniles:
- Criteria for placing in detention; changed, amends C.2A:4A-34 and 2A:4A-38, Ch.306.
 - Incarceration, facilities, certain; required, amends C.2A:4A-23 and 2A:4A-37, Ch.125.
- Parole, murderer, review by full parole board, required, amends C.30:4-123.55, Ch.115.
- "Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989," Ch.184.

COUNTIES

- Boundary between Somerset and Union Counties, changed, Ch.149.
- Budgets:
- Amendment of, circumstances under which permitted; increased, amends N.J.S.40A:4-87, Ch.226.
 - "Cap" exemption, emergency 9-1-1 telephone equipment, amends C.40A:4-45.4, Ch.3.
 - "Cap" law, extended for one year, amends P.L.1976, c.68, s.7, Ch.338.
 - Deadlines; extension, permanent, authorized, C.40A:4-5.1 et al., Ch.31.
- Contracts, joint, with municipalities, regulation clarified, amends C.40:48B-2, Ch.113.

COUNTIES (Continued)

- "County and Municipal Water Supply Act," C.40A:31-1 et seq., amends C.40A:4-35.1, repeals C.40:14C-1 et al., Ch.109.
- County clerk, part of filing, entering, docketing fee for court documents, certain; returned to by county treasurer for modernization of services; increased, amends C.22A:4-17.1 and P.L.1985, c.422, s.9, Ch.301.
- Emergency Operations Plan, adoption; required, C.App.A:9-42.1b et al., amends C.App.A:9-40.1 et al., Ch.222.
- Insurance pools, contracting units joining; permitted, law revised, amends C.40A:10-36 et al., Ch.253.
- Issuance of bonds, other obligations for county parks; authorized, subject to referendum, C.40:37-95.10n to 40:37-95.10p, Ch.179.
- Low-interest farm loan programs; establishment authorized, amends title of P.L.1987, c.34 and C.40:23-12.2 and 40:23-12.3, Ch.158.
- Open space preservation; land acquisition, authorized, C.40:12-16 et seq., Ch.30.
- Sheriff's officer chief, position created, terms, qualifications, C.40A:9-117.15 to 40A:9-117.19, Ch.280.
- Welfare equalization program, transferred to Department of Human Services, amends C.44:14-4 and 44:14-6, Ch.134.

COURTS

- Deputy Clerk of the Superior Court; position created, county clerk's office; divided, C.2A:5A-1 to 2A:5A-6, repeals N.J.S.2A:2-15, Ch.296.

CRIMES AND OFFENSES

- Anabolic steroids, defined, unauthorized use, distribution third degree crime, C.2C:35-2.1 et al., amends C.2A:170-77.8 and 2A:170-77.9, Ch.335.
- Animal fighting, baiting; third degree crime, C.4:22-48.1, amends R.S.4:22-24 et al., Ch.35.
- Child and family counseling unit, establishment by Violent Crimes Compensation Board; required, C.52:4B-25.1, Ch.322.
- Death by auto, sentencing requirement; clarified, amends N.J.S.2C:11-5, Ch.211.
- Disbursing of moneys, incurring obligations in excess of appropriation by public officials; fourth degree crime, C.2C:30-4, Ch.131.
- Elderly, disabled; abuse, neglect, certain; fourth degree crime, C.2C:24-8, amends C.2C:25-2 et al., Ch.23.
- Eluding officer, motor vehicle penalties, changed, amends N.J.S.2C:29-2, Ch.84.

CRIMES AND OFFENSES (Continued)

Juror contact, certain; fourth degree crime, C.2C:29-8.1, Ch.22.
Obscene materials, promoting and exhibition, certain, fourth degree crime, amends N.J.S.2C:34-2 and 2C:34-3, Ch.54.
Paging devices, use of while committing offenses, certain, fourth degree crime; other unauthorized sale, possession or use, disorderly persons offense, C.2C:33-18 to 2C:33-20, Ch.232.
Prison sentences, mandatory, reduced, certain, C.2C:43-6.2 and 2C:43-6.3, Ch.53.
Sexual assault, laws concerning; changed, amends N.J.S.2C:1-6 et al., Ch.228.
Slug, fraudulent use in vending machine; upgraded to disorderly persons offense, amends N.J.S.2C:21-18, Ch.33.
Theft of utility services, restitution, fines, provided, amends N.J.S.2C:20-8, Ch.112.
Violation of "Air Pollution Control Act," third or fourth degree crime, C.26:2C-19, Ch.333.

CRIMINAL PROCEDURE

Child victims, sexual assault and certain abuse, disclosure of identity; prohibited, disorderly persons offense; C.2A:82-46, Ch.336.
Child victims of sexual offenses, certain, hearsay exception, created, J.R.4.
Forfeiture actions, use of seized property by local law enforcement agency upon application; permitted, amends N.J.S.2C:64-3, Ch.279.
"New Jersey Wiretapping and Electronic Surveillance Control Act," revised, extended, amends C.2A:156A-3 et al., Ch.85.

DOMESTIC RELATIONS

Birth certificate; social security numbers of parents recorded for enforcement of child support orders; required, amends R.S.26:8-28, Ch.230.
Child and family counseling unit, establishment by Violent Crimes Compensation Board; required, C.52:4B-25.1, Ch.322.
Child support payments made under unemployment compensation, assessments; eliminated, amends C.2A:17-56.11, Ch.215.
Child support proceedings, award of counsel fees; permitted, C.2A:34-23a, Ch.212.
Marriage, solemnization by deputy mayor, permitted, amends R.S.37:1-13, Ch.111.
"Missing Persons' Month," designated, C.36:2-13 and 36:2-14, Ch.83.

DRUGS

Governor's Council on Alcoholism and Drug Abuse, established, C.26:2BB-1 et seq., amends C.26:2B-32 et al., repeals C.26:2B-10 et al., Ch.51.

School drug education, prevention, intervention programs, inclusion of anabolic steroids; required, amends C.18A:40A-9 et al., Ch.216.

ELECTIONS

County election officials, certain, salary increase, permitted, amends R.S.19:32-1 et al., Ch.160.

Gubernatorial; campaign financing, revised, C.19:44A-11.1 et al., amends C.19:44A-3 et al., Ch.4.

Presidential electors, certain, nominating petition, filing deadline, changed, amends R.S.19:13-9 et al., Ch.70.

Public schools, buildings, denial of county board of election request to use as polling place; prohibited, amends R.S.19:8-2, Ch.292.

ENVIRONMENT

Bond proceeds, certain, use for remediation of contaminated groundwater supplies; authorized, Ch.182.

Clean Communities Account, disbursement of funds, modified; penalties for littering, increased, C.13:1E-99.2a, amends C.13:1E-99.2 and 13:1E-99.3, Ch.108.

"Comprehensive Regulated Medical Waste Management Act," C.13:1E-48.1 to 13:1E-48.28, amends C.13:1E-7 et al., Ch.34.

"Endangered Plant Species List Act," C.13:1B-15.151 to 13:1B-15.158, Ch.56.

Environmental Protection, Department:

Wastewater treatment system project development, technical assistance to local government units, required; entrance by commissioner into capitalization grant agreement, authorized, Ch.189.

Hazardous discharges from overhead aircraft, notification of affected municipalities by Department of Environmental Protection; required, C.58:10-23.11e1, Ch.246.

Hazardous discharge sites, review of expenditures by Department of Environmental Protection; provided, C.13:1E-55.1 to 13:1E-55.3, amends C.13:1E-54 et al., Ch.243.

Hazardous substances, employee educational programs, instructors; certification, "Worker and Community Right to Know Fund"; extended, amends C.34:5A-13 et al., Ch.155.

ENVIRONMENT (Continued)

- Leaf composting facilities, ownership, licensing, regulation, C.13:1E-99.21a et al., amends C.13:1E-99.12 et al., Ch.151.
- Medical waste generators, fees charged by Department of Environmental Protection; regulated, amends C.13:1E-48.7 and 13:1E-48.12, Ch.240.
- New Jersey Wastewater Treatment Trust, loans to local governments for wastewater treatment system projects, authorized, Ch.190.
- Ocean waters, discharge of waste, prohibited, C.58:10A-7.1, Ch.119.
- "Open Space Preservation Bond Act of 1989," Ch.183.
- Plastic bottles, containers, uniform coding system; established, C.13:1E-99.40 et seq., Ch.268.
- Public land, lease to Popcorn Park Zoo; terms, regulation, Ch.233.
- Radon hazard code, construction regulations, adoption, required, C.52:27D-123a et seq., Ch.186.
- Solid waste disposal costs, renegotiation of contracts, certain; authorized, C.40A:11-16.5 et al., Ch.236.
- Solid waste laws, violation, penalties increased, C.13:1E-9.3 and 13:1E-9.4, amends C.48:13A-12, Ch.118.
- "Solid Waste Utility Control Act of 1970," penalties for violations clarified, amends C.48:13A-12, Ch.95.
- "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," Ch.181.
- Subcommittee on Green Acres Properties, creation in State House Commission; mandated, C.52:20-18.1 to 52:20-18.6, Ch.241.
- Uranium mining, prohibited, C.13:1J-1, repeals C.13:1J-5, Ch.146.
- Violation of "Air Pollution Control Act," third or fourth degree crime, C.26:2C-19, Ch.333.
- Water supplies, contaminated, loans for remediation; mapping, testing; provided, C.58:12A-22.1, amends C.58:12A-22 et al., Ch.311.

ESTATES

- Conservator, appointment of nonprofit charitable agency chief administrator; permitted, amends N.J.S.3B:13A-5, Ch.329.
- Fiduciaries, multiple; commissions, certain, additional, permitted, C.3B:18-25.1, Ch.7.

EXECUTIVE ORDERS

- Ambassador Arnold Raphel Center for International Business Education, advisory council, created, No.209.
- Commission on Environmental Education, created, No.205.

EXECUTIVE ORDERS (Continued)

- Energy conservation by State entities to reduce emissions of gases that contribute to global climate change, directed, No.219.
- Environmental assessment or impact statement in support of major construction projects, submission by State entities to Department of Environmental Protection; required, No.215.
- Ethnic Advisory Council, membership increased, No.206.
- Governor's Advisory Council on Mental Health Services Planning, term extended, No.211.
- Governor's Council on the Prevention of Mental Retardation, term extended, No.223.
- Governor's Mobility Plan Coordinating Committee:
Created, No.218.
Membership expanded, No.220.
- Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts:
Created, No.213.
Membership expanded, No.214.
- Governor's Task Force on Child Abuse and Neglect, term extended, No.217.
- Martin Luther King, Jr. Commemorative Commission, no longer to operate by authority of Executive Order, rescinds Executive Orders Nos.83, 94 and 131, No.222.
- New Jersey-Israel Commission, created, No.208.
- New Jersey's Federal Radon Grant Proposal, submission to United States Environmental Protection Agency, directed, No.216.
- "Policy for a Drug-Free Workplace in New Jersey State Government," adopted, No.204.
- Public Power Association of New Jersey, designated as bargaining agent for Power Authority of State of New York, No.210.
- Relocation assistance and eviction regulations, extended, No.203.
- Skylands Greenway Task Force, created, No.224.
- State government employees; holiday, day after Thanksgiving, No.221.
- State of emergency, placement of flammable and dangerous materials near and under highways in the City of Newark, No.212.
- State of emergency, prison overcrowding, continuing, No.202.
- Voter registration forms, State departments to disseminate and facilitate completion, No.207.

FEDERAL RELATIONS

- Census, veterans' information, Bureau memorialized, J.R.8.

FIRE SAFETY

Municipal appropriation maximum:

Increased; districts, volunteer companies, amends N.J.S.40A:14-34, Ch.41.

Removed; companies, certain, in adjoining municipalities, amends N.J.S.40A:14-35, Ch.39.

New Jersey State Firemen's Association, admission requirements modified, amends R.S.43:17-9, Ch.105.

School fires; reporting, mandated, C.52:27D-25d1 et al., Ch.42.

Volunteer fire companies who contract with municipalities for services, election of own chief; right retained, amends N.J.S.40A:14-68 and 40A:14-70.1, Ch.285.

FIRST AID AND RESCUE SQUADS

Cardiac defibrillation, by emergency medical technician certified as EMT-D; authorized, C.26:2K-39 to 26:2K-47, Ch.314.

FISH, GAME AND WILDLIFE

Striped bass, certain; prohibition changed, amends C.23:5-45.1, repeals C.23:5-46, Ch.82.

FOOD AND BEVERAGES

Irradiated food, sale, distribution; prohibited, amends R.S.24:5-8, Ch.203.

Plastic bottles, containers, uniform coding system; established, C.13:1E-99.40 et seq., Ch.268.

GAMES AND GAMBLING

Consultants' presentations before Casino Control Commission, regulations clarified, amends C.5:12-59, Ch.150.

HANDICAPPED PERSONS

Construction to promote accessibility to structure, fees, certain; waived, C.52:27D-126e, Ch.223.

"Identification Cards for Nondrivers' Act," amends C.39:3-29.2 et seq., Ch.52.

Motor vehicle, parked unlawfully in restricted parking space, request for removal; permitted, C.39:4-207.6 and 39:4-207.7, Ch.200.

Parking spaces designated for vehicles of handicapped, law revised, C.39:4-207.8, amends R.S.39:4-138 et al., Ch.201.

Special education pupils, certain, attendance at private schools, permitted, amends N.J.S.18A:46-14, Ch.152.

HANDICAPPED PERSONS (Continued)

Young adults, study of programs, services available; mandated, J.R.6.

HEALTH

AIDS, reporting of cases to Department of Health, confidentiality of patient records; required, C.26:5C-5 to 26:5C-14, Ch.303.

Anabolic steroids, commissioner to conduct study on feasibility of inclusion in schedules; required, C.2C:35-2.1 et al., amends C.2A:170-77.8 and 2A:170-77.9, Ch.335.

Autopsy reports, furnishing to survivors, certain, by county medical examiners, within 90 days; required, amends C.52:17B-88, Ch.323.

Birth certificate; social security numbers of parents recorded for enforcement of child support orders; required, amends R.S.26:8-28, Ch.230.

Boards of Health, local, commissions, certain; appointment of two alternate members permitted, amends R.S.26:3-3 and C.40:56A-1, Ch.168.

Cardiac defibrillation, performance by persons, certain; authorized, C.26:2K-39 to 26:2K-47, Ch.314.

"Comprehensive Regulated Medical Waste Management Act," C.13:1E-48.1 to 13:1E-48.28, amends C.13:1E-7 et al., Ch.34.

Cystic fibrosis, financial assistance to adults with, C.26:20-1 to 26:20-4, repeals C.26:2-118, Ch.270.

Enucleation of eyes by eye bank technicians and medical students, certain; permitted, amends C.26:6-60, Ch.187.

Eye Donor Month, March 1989, J.R.1.

Health, Department:

Program for certification of programs, instructors for hazardous substances education, required, amends C.34:5A-13 et al., Ch.155.

Monitoring of impact of P.L.1989, c.140 on public safety, required, note to C.26:1A-7, Ch.140.

Health service corporations, taxation regulations; changed, amends C.17:48E-17.1 et al., Ch.295.

Heimlich Maneuver, display of posters depicting technique in school cafeterias; required, C.18A:33-6 and 26:3E-3.1, Ch.302.

Homemaker-home health aides, certification by New Jersey Board of Nursing, C.45:11-24.1, amends C.45:11-23 and 45:11-24, Ch.98.

Insurance, group contracts, preexisting condition exclusions, certain, prohibited, C.17:48A-7d et al., Ch.63.

HEALTH (Continued)

- Irradiated food, sale, distribution; prohibited, amends R.S.24:5-8, Ch.203.
- Local board of health, laboratory examination for rabies on animal dying during confinement period; permitted, amends R.S.26:4-86, Ch.297.
- Medicaid, coverage of hospice services; required, amends C.30:4D-6, Ch.251.
- Medical waste generators, fees charged by Department of Environmental Protection; regulated, generic appeal process for hospital to petition Hospital Rate Setting Commission for reimbursement of costs, amends C.13:1E-48.7 and 13:1E-48.12, Ch.240.
- "Professional Medical Conduct Reform Act of 1989," C.45:9-19.4 et al., amends C.26:2H-12.2 et al., Ch.300.
- Public health priority funds, awarded on calendar year basis, amends C.26:2F-9, Ch.64.
- "Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989," Ch.184.
- Tanning facilities, regulation by Department of Health; required, C.26:2D-81 to 26:2D-88, Ch.234.
- Uncompensated Care Trust Fund, established in department, C.26:2H-18.4 et seq. and 18A:62-14, Ch.1.

HIGHWAYS

- "Anthony J. Cafiero Highway," Route 147 designated as, J.R.9.
- Relocation assistance program, revised; displaced persons, amends C.27:7-73 et al., Ch.50.
- "State Highway Access Management Act," C.27:7-89 et seq., amends R.S.27:7-1 et al., repeals C.27:7A-4 et al., Ch.32.
- Traffic signals on local roads, maintenance by Department of Transportation, permitted, amends C.39:4-121.3, Ch.72.
- Vehicles, motorized bicycles, right of way law for entering, changed, C.39:4-14.3x, amends R.S.39:4-66 and C.39:4-66.1, Ch.147.

HISTORICAL AFFAIRS

- Medals of Honor, related memorabilia, collection by New Jersey State Museum for display; directed, C.18A:73-20.2 and 18A:73-20.3, Ch.334.

HOLIDAYS

- "Grandparent Week," established, C.36:2-15, J.R.5.

HOSPITALS

- Bill of rights, patients in general hospitals; established, C.26:2H-12.7 et seq., Ch.170.
- Health maintenance organizations, extension of contracts with hospitals, certain circumstances; permitted, C.26:2J-11.1, amends C.26:2J-11, Ch.321.
- Organ donation option certificate, attachment to death certificate, exception, amends C.26:6-58.1, Ch.57.
- Uncompensated Care Trust Fund, established in Department of Health, C.26:2H-18.4 et seq. and 18A:62-14, Ch.1.

HOTELS

- Full-year operation, hotels, guest, rooming houses, certain, permitted, C.40:55D-68.1 et seq., Ch.67.
- Hotels, motels, campgrounds, certain; exemption from lifeguard requirements for swimming pools, note to C.26:1A-7 and 26:4A-1 et seq., Ch.61.

HOUSING

- Council on Affordable Housing:
- Demolition of certain buildings for fair housing purposes, prohibited, C.52:27D-311.1 and 52:27D-313.1, Ch.142.
 - Elected officials, appointment, terms, amends C.52:27D-305, Ch.199.
- Eviction of tenants who commit criminal offenses, certain, from rental housing; permitted, C.2C:35-16.1, amends C.2A:18-61.1 and 2A:18-61.2, Ch.294.

HUMAN SERVICES

- Conservator, appointment of nonprofit charitable agency chief administrator; permitted, amends N.J.S.3B:13A-5, Ch.329.
- Division of Public Welfare, name changed to Division of Economic Assistance, amends C.30:4B-1 et al., Ch.88.
- Interstate Compact on the Placement of Children, C.9:23-5 to 9:23-17, Ch.284.
- Involuntary commitment, county adjuster to present case to court, amends C.30:4-27.2 and 30:4-27.12, Ch.73.
- Medicaid program, coverage of hospice services; required, amends C.30:4D-6, Ch.251.
- Mental hospitals; commitment, involuntary; procedure revision; implementation, postponed, amends P.L.1987, c.116, s.33; Ch.10.

HUMAN SERVICES (Continued)

Pharmaceutical Assistance to the Aged and Disabled, eligibility; income exclusion; gain from residence sale, certain, amends C.30:4D-21, Ch.16.

“Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989,” Ch.184.

Senator Garrett W. Hagedorn Center for Geriatrics, admission of involuntary patients; authorized, amends R.S.30:4-160, Ch.313.

INSURANCE

Automobile, policies serviced by terminated agents, certain, permitted, amends C.17:22-6.14a, Ch.129.

Automobile, theft, salvage, reporting by insurer, required, C.17:23-19, Ch.65.

Custodial deposits of insurance companies, procedures, certain; changed, C.17:20-3.1 et al., amends R.S.17:20-1 et al., repeals C.17:20-6 and N.J.S.17B:18-40, Ch.264.

Foreign insurance companies, installment payment requirement for premiums tax, changed, amends C.54:18A-1, Ch.81.

Health, group contracts, preexisting condition exclusions, certain, prohibited, C.17:48A-7d et al., Ch.63.

Health maintenance organizations, extension of contracts with hospitals, certain circumstances; permitted, C.26:2J-11.1, amends C.26:2J-11, Ch.321.

Insurers, certain, exemption from inclusion of premiums of affiliates to determine qualification for tax preference, amends C.54:18A-6, Ch.315.

Life, health insurers, greater foreign investments; permitted, amends N.J.S.17B:20-1 et al., Ch.267.

Municipal insurance pools, contracting units joining; permitted, law revised, amends C.40A:10-36 et al., Ch.253.

Pet health, authorization for life and health insurers to write, removed, amends C.17:46D-1 et al., repeals C.17:46D-2, Ch.69.

State Health Benefits Commission; negotiating flexibility, certain, C.52:14-17.28a, amends C.52:14-17.28, Ch.6.

JOINT RESOLUTIONS

“Anthony J. Cafiero Highway,” Route 147 designated as, J.R.9.

Census, veterans’ information, Bureau memorialized, J.R.8.

Child victims of sexual offenses, certain, hearsay exception, created, J.R.4.

Eye Donor Month, March 1989, J.R.1.

JOINT RESOLUTIONS (Continued)

- "Grandparent Week," established, C.36:2-15, J.R.5.
- Interdepartmental study of availability of services and programs for handicapped young adults, certain; mandated, J.R.6.
- "Literacy Awareness Week," established, C.36:2-12, J.R.2.
- Port Authority In-Lieu-of-Tax Payment Study Commission, established, J.R.7.
- "Special Education Week," May 14-20, 1989, J.R.3.

JUDGES

- Judiciary salaries, State; increased, amends C.2A:1A-6, Ch.343.
- Superior Court, additional:
 - Bergen County, two, amends N.J.S.2A:2-1, Ch.324.
 - Burlington County, two, amends N.J.S.2A:2-1, Ch.128.
 - Cumberland County, one, amends N.J.S.2A:2-1, Ch.13.
 - Hudson County, two, amends N.J.S.2A:2-1, Ch.12.
 - Morris County, one, amends N.J.S.2A:2-1, Ch.185.

JURIES

- Jury commission, abolished, powers transferred to assignment judge of the Superior Court, C.2A:70-4a and 2A:68-12.1, amends N.J.S.2A:70-1 et al., repeals N.J.S.2A:68-1 et al., Ch.87.

LABOR

- Child labor law, employment, certain, permitted, amends C.34:2-21.3 and 34:2-21.17, Ch.121.
- Collective bargaining, disciplinary negotiations, public school employees; scope broadened, C.34:13A-22 to 34:13A-29, Ch.269.
- "Conscientious Employee Protection Act"; provisions extended, amends C.34:19-3, Ch.220.
- Department of Labor, fee assessed to employers for implementation of hazardous substances education and training programs, amends C.34:5A-13 et al., Ch.155.
- Employment agencies, services, firms, certain; regulation, C.34:8-43 et al., repeals C.34:8-24 et seq. and 34:8-26.1, Ch.331.
- "Family Leave Act," C.34:11B-1 to 34:11B-16, Ch.261.
- "Home work law," penalties increased, amends C.34:6-136.19, Ch.161.
- State Employment and Training Commission; established, C.34:15C-1 to 34:15C-16, amends C.52:18A-129 et al., Ch.293.

LANDLORD AND TENANT

Owners, lessees, occupants; premises with public access, liability, limited, C.2A:42A-8, Ch.172.

LIBRARIES

Trustees, commissioners, immunity from liability; granted, C.2A:53A-7.3, Ch.171.

MILITARY AND VETERANS

Medals of Honor, related memorabilia, collection by New Jersey State Museum for display; directed, C.18A:73-20.2 and 18A:73-20.3, Ch.334.

The Advisory Commission on Women Veterans of New Jersey; established in Department of Military and Veterans' Affairs, amends P.L.1987, c.194, s.1, Ch.257.

Transfer of veterans' remains, certain, to Arneytown Veterans' Memorial Cemetery by Division of Veterans' Administrative Services, C.38A:3-2b1, Ch.135.

Veterans' Facilities Council, abolished; advisory councils, established; Adjutant General, powers, duties, specified, C.38A:3-6.3 et seq., repeals C.30:6AA-1 et al., Ch.162.

Vietnam Veterans' Memorial Committee:

Members, volunteers, exemption from liability for damages, certain conditions, Ch.174.

Reconstituted, Ch.148.

MOTOR VEHICLES

Abandoned, reporting by public agencies of finding, required, amends C.39:10A-1, Ch.66.

Auto body repair facilities, liens held by certain, priority; established, amends C.39:13-8, Ch.273.

Auto theft, salvage; reporting by insurer, required, C.17:23-19, Ch.65.

"Commercial Motor Vehicle Safety Act of 1986," exemption from licensing provisions; drivers, certain, C.39:3-10j et seq., Ch.164.

Driver's license, suspension; for eluding officer; required, amends N.J.S.2C:29-2, Ch.84.

Drivers' licenses; vision screening; certification by licensed ophthalmic dispensers, permitted, amends C.39:3-10c, Ch.15.

Gasoline stations, safety standards; established, self-service; prohibited, C.34:3A-4 to 34:3A-11, repeals C.34:3A-1 et seq., Ch.263.

MOTOR VEHICLES (Continued)

- “Identification Cards for Nondrivers’ Act,” amends C.39:3-29.2 et al., Ch.52.
- Identification document, false, sale, loan, provision of to obtain licenses, registrations; penalty, amends R.S.39:3-37, Ch.298.
- License plate holders, advertising plates, certain, concealing or obscuring plate markings; prohibited, amends R.S.39:3-33, Ch.132.
- License plates, special, certain, use by surviving spouse, C.39:3-27.41, amends C.39:3-27.24 and 39:3-27.25, Ch.117.
- Motorcycles, inspection between April 1 and October 31; required, amends R.S.39:8-2 and 39:3-4, Ch.167.
- Parking penalties, certain, disbursement to municipality; permanent, amends C.39:4-139.9, Ch.137.
- “Recycling vehicles,” certain; width limitations, special, amends R.S.39:3-84, Ch.47.
- Reflectorized plates; required, C.39:3-33.9, amends R.S.39:3-33, Ch.202.
- Registration in foreign country, temporary operation; permitted, C.39:3-4f, Ch.210.
- Registration plates, special; service organization, minimum number reduced, amends C.39:3-27.35, Ch.49.
- Registrations, licenses, inclusion of street address; required, C.39:3-9b, amends R.S.39:3-4, Ch.326.
- Restricted parking spaces for handicapped persons, request for removal, storage of unlawfully parked vehicles; permitted, C.39:4-207.6 and 39:4-207.7, Ch.200.
- Right of way, vehicles and motorized bicycles, entering highway, changed, C.39:4-14.3x, amends R.S.39:4-66 and C.39:4-66.1, Ch.147.
- School bus, illegally passing, penalty; increased, amends C.39:4-128.1, Ch.319.
- School buses, “Out of Service” sign requirement repealed, repeals C.39:4-128.2, Ch.36.
- School buses, use for transportation of participants in municipal programs, certain; permitted, no fee registration continued, amends C.18A:39-22 and 18A:39-23, Ch.136.
- Trucks, motor fuels user identification markers, permits; fee reduced, amends C.54:39A-10, Ch.116.
- Vehicles of handicapped, parking spaces designated for, law revised, C.39:4-207.8, amends R.S.39:4-138 et al., Ch.201.

MUNICIPALITIES

Agricultural development area, action on petitions required within 180 days, amends C.4:1C-21, Ch.242.

Boundaries between township of Warren, borough of Watchung, township of Berkeley Heights, changed, Ch.149.

Budgets:

Amendment of, circumstances under which permitted; expanded, amends N.J.S.40A:4-87, Ch.226.

“Cap” exemption; emergency 9-1-1 telephone equipment, amends C.40A:4-45.3, Ch.3.

“Cap” law, local, extended for one year, amends P.L.1976, c.68, s.7, Ch.338.

Deadlines; extension, permanent, authorized, C.40A:4-5.1 et al., Ch.31.

Construction to promote accessibility by handicapped to structure, fees, certain; waived, C.52:27D-126e, Ch.223.

Contracts, joint, with counties, regulation clarified, amends C.40:48B-2, Ch.113.

Council on Affordable Housing:

Demolition of certain buildings for fair housing purposes, prohibited, C.52:27D-311.1 and 52:27D-313.1, Ch.142.

Elected officials, appointment, terms, amends C.52:27D-305, Ch.199.

“County and Municipal Water Supply Act,” C.40A:31-1 et seq., amends C.40A:4-35.1, repeals C.40:14C-1 et al., Ch.109.

Development fee exemption, boards of education, amends C.40:55D-8 and 52:27D-126c, Ch.43.

Disbursement of parking penalties to municipal court, permanent, amends C.39:4-139.9, Ch.137.

Emergency Operations Plan, adoption; required, C.App.A:9-42.1b et al., amends C.App.A:9-40.1 et al., Ch.222.

Enforcing agency fees for certain corporations, waiver, permitted, C.52:27D-126d, Ch.68.

Insurance pools, contracting units joining; permitted, law revised, C.40A:10-36 et al., Ch.253.

Local boards, commissions, certain; appointment of two alternate members, permitted, amends R.S.26:3-3 and C.40:56A-1, Ch.168.

Mayors, certain, appointing powers; clarified, amends C.40:69A-43, Ch.258.

“Optional Municipal Charter Law”; terminology changed, amends C.40:69A-14 et al., Ch.221.

MUNICIPALITIES (Continued)

- Police and Firemen's Retirement System, adoption by ordinance; permitted, Ch.231.
- Private communities, certain, reimbursement for provision of municipal services, certain; required, C.40:67-23.2 to 40:67-23.8, Ch.299.
- Programs, municipal, use of school buses for transportation of participants, certain; permitted, amends C.18A:39-22 and 18A:39-23, Ch.136.
- Repair, demolition of buildings, certain, permitted, C.40:48-2.3a, Ch.91.
- Solid waste charges, imposition on a per container basis; permitted, C.40:66-1.1, amends R.S.40:66-1 et al., repeals R.S.40:66-6 to 40:66-7, Ch.244.
- State parks, forests, payment by State to municipalities, certain; increased, amends C.13:1L-7, Ch.347.
- Stratford, borough of; appointment of James J. Wilkins to police department, authorized, Ch.94.
- Tax abatements for residential property, certain; permitted, C.54:4-3.139 to 54:4-3.149, Ch.207.
- Townships, villages, laws revised, N.J.S.40A:63-1 et seq., amends N.J.S.40A:9-136, repeals R.S.40:95-1 et al., Ch.157.
- Violation of ordinance, repeat offenders, fines, additional, amends R.S.40:49-5 and C.40:69A-29, Ch.114.
- Volunteer fire departments under contract for services, election of own chief; right retained, amends N.J.S.40A:14-68 and 40A:14-70.1, Ch.285.
- Women's centers, urban, provision of services; modified, amends C.52:27D-292, Ch.344.

NURSING HOMES, ROOMING AND BOARDING HOUSES

- Medicaid; reimbursement rates, supplement, temporary, Ch.18.
- Nursing homes, residential health care facilities, ambient temperature not to exceed 82 degrees Fahrenheit, C.26:2H-14.4, amends C.26:2H-14.3, Ch.173.

PENSIONS AND RETIREMENT

- Consolidated Police and Firemen's Pension Fund; survivor's benefits for spouse, marriage period reduced, amends C.43:16-17, Ch.78.
- County hospital employees, certain, purchase of credit for temporary service in Public Employees' Retirement System; permitted, C.43:15A-75.2, Ch.287.

PENSIONS AND RETIREMENT (Continued)

- Pensions, voluntary withholding of New Jersey Gross Income Tax; permitted, C.54A:7-1.1, amends N.J.S.54A:7-2 et seq., Ch.328.
- Police and Firemen's Retirement System:
- Adoption by municipalities, certain; permitted, Ch.231.
 - Disability retirement benefit payable to survivors, certain, amends C.43:16A-9, Ch.99.
 - Membership transfer, certain, from Prison Officers' Pension Fund, Ch.205.
 - Revised, C.43:16A-15.6 et al., amends C.43:16A-1 et al., Ch.204.
 - Special disability retirement for heart transplant recipients, State health benefits, certain, permitted, C.43:16A-6.1 and 52:14-17.38a, Ch.103.
 - State Police Retirement System, payment of health insurance premiums for survivors by State; provided, amends C.43:16A-10 and 53:5A-14, Ch.271.
 - Vincent Lopez, payment of death benefit to beneficiary; authorized, Ch.309.
- Recipients accepting elected public office, reenrollment in system; permitted, amends C.43:3C-3, Ch.320.
- State Health Benefits, retirees; major medical lifetime benefits, identical with active employees', amends C.52:14-17.29, Ch.48.
- State Police Retirement System, disability retirement benefits, certain; increased, amends C.53:5A-9, Ch.308.
- Teachers' Pension and Annuity Fund:
- Death benefit or retirement allowance, selection by beneficiary; permitted, C.18A:66-47.2, Ch.272.
 - Purchase of credit for leaves of absence, certain; permitted, C.18A:66-14.2, amends N.J.S.18A:66-2, Ch.198.
 - Purchase of credit for service in local retirement systems, certain, permitted, amends N.J.S.18A:66-15.1, Ch.101.

PLANNING AND ZONING

- "Burlington County Transfer of Development Rights Demonstration Act," C.40:55D-113 et seq., amends C.4:1C-31 and 4:1C-32, Ch.86.
- Child care centers, certain, location in nonresidential municipal districts; permitted, C.40:55D-66.6, Ch.286.
- Protection of potable water supplies, protection by municipalities in zoning ordinances; required, amends C.40:55D-38, Ch.208.
- State Development and Redevelopment Plan, economic assessment; required, C.52:18A-202.1 to 52:18A-202.3, Ch.332.

POLICE

Educational institutions; officers, certain; training cost reimbursement, by new employer, C.18A:6-4.12, amends C.40A:14-178, Ch.40.

Honor Legion medal, display on uniform without prior departmental authorization; permitted, amends N.J.S.40A:14-153, Ch.339.

New Jersey Transit Rail Operations Police Department; established, police officers, appointment, provided, C.27:25-15.1, amends R.S.48:3-38 et al., Ch.291.

PROFESSIONS AND OCCUPATIONS

Architecture, regulations concerning practice; changed, C.45:3-1.1 et al., amends C.45:3-5.1 et al., Ch.275.

Athletic trainers, registration without examination under certain circumstances; permitted, amends C.45:9-37.40 to 45:9-37.45, Ch.169.

"Building Design Services Act," C.45:4B-1 to 45:4B-14, Ch.277.

Cardiac defibrillation, by emergency medical technician certified as EMT-D; authorized, C.26:2K-39 to 26:2K-47, Ch.314.

"Chiropractic Board Act," C.45:9-41.17 et seq., Ch.153.

Engineering and land surveying, regulations concerning practice; changed, C.45:8-56 to 45:8-60, amends C.45:8-27 et al., repeals C.45:8-44, Ch.276.

Landscape irrigation contractors, installation of low voltage wiring, certain; permitted, amends C.45:5A-18 et al., Ch.274.

New Jersey State Board of Accountancy, membership; increased, amends C.45:2B-5, Ch.340.

Ophthalmic dispensers, licensed; drivers' licenses, vision screening; certification, permitted, amends C.39:3-10c, Ch.15.

Physicians, certain; health care services, financial interests; disclosure to patients, required, C.45:9-22.4 et seq., Ch.19.

"Professional Medical Conduct Reform Act of 1989," C.45:9-19.4 et al., amends C.26:2H-12.2 et al., Ch.300.

Real estate brokers, salespersons, penalty for misconduct increased; licensing requirements, modified, amends R.S.45:15-9 et al., repeals R.S.45:15-23, Ch.126.

PROPERTY

"Uniform Unclaimed Property Act (1981)," unclaimed personalty, law revised, R.S.46:30B-1 et seq., amends N.J.S.2A:19-42 et al., repeals N.J.S.2A:15-76 et al., Ch.58.

PUBLIC CONTRACTS

Emergency medical services contracts, municipalities with hospitals, exemption from "Local Public Contracts Law," amends C.40A:11-5 and 40A:11-15, Ch.159.
Local public contracts, exception, marketing of products produced or derived from solid waste, amends C.40A:11-5, Ch.92.
Public works contracts, surety obligation; clarified, amends N.J.S.2A:44-143, Ch.316.
Solid waste disposal costs, renegotiation of contracts, certain; authorized, C.40A:11-16.5 et al., Ch.236.

PUBLIC EMPLOYEES

Leave of absence, paid, for attendance at conventions, certain, amends C.40A:14-177, Ch.224.
Sheriff's officer chief, position created, terms, qualifications, C.40A:9-117.15 to 40A:9-117.19, Ch.280.
State Health Benefits:
 Commission; negotiating flexibility, certain, C.52:14-17.28a, amends C.52:14-17.28, Ch.6.
 Continuation during leaves of absence, certain, permitted, amends C.52:14-17.32g, Ch.127.
 Retirees; major medical 'lifetime benefits, identical with active employees', amends C.52:14-17.29, Ch.48.

PUBLIC UTILITIES

Alternate operator telephone service providers, establishment of regulatory standards by Board of Public Utilities; required, C.48:17-23 and 48:17-24, Ch.337.
Board of Public Utilities, permitted assessment for regulatory expenses; increased, amends C.48:2-60, Ch.281.
Natural gas pipeline safety, violation, penalties, C.48:9-33, Ch.80.
"Solid Waste Utility Control Act of 1970," penalties clarified, amends C.48:13A-12, Ch.95.
Telecommunications carriers, certain; rate reduction, C.48:2-21.15, Ch.3.

REAL PROPERTY

Common interest communities, certain; civil immunity, limited, permitted; from unit owners, C.2A:62A-12 et seq., Ch.9.
"Real Estate Sales Full Disclosure Act," C.45:15-16.27 to 45:15-16.49, repeals C.45:15-16.3 et seq., Ch.239.
Real Property Recording Study Commission; established, Ch.289.

REAL PROPERTY (Continued)

Tax exemption for senior citizen, disabled, veteran tenants of cooperative or mutual housing corporations, C.54:4-8.55 to 54:4-8.56, amends C.54:4-8.40 et al., Ch.252.

RECREATION

Hotels, motels, campgrounds, trailer parks, retirement communities, certain, exemption from lifeguard requirement, note to C.26:1A-7, Ch.140.

Private bathing places, exemption from public recreational bathing regulations, certain, note to C.26:1A-7, Ch.138.

Swimming pools, certain; exemption from lifeguard requirement, Ch.61.

REORGANIZATION PLAN

Human Services, Department of, for delivery of certain services to persons who are deaf or hard of hearing, No. 001-1989.

Public Utilities, Board of, No. 002-1989.

SCHOOLS

All purpose regional district, withdrawal by municipality, permitted, procedure, C.18A:13-66 et seq., Ch.90.

Budgets:

Itemization, certain, required, C.18A:19-15, amends N.J.S.18A:22-8, Ch.46.

Notice for hearings, simplification, amends N.J.S.18A:22-8, Ch.217.

Bus drivers, criminal history records check procedure, modified, C.18A:39-19.1, amends N.J.S.18A:39-17 et al., repeals N.J.S.18A:39-19, Ch.104.

Buses; "Out of Service" sign requirement repealed, repeals C.39:4-128.2, Ch.36.

Buses, transportation for participants in municipal programs, certain; permitted, amends C.18A:39-22 and 18A:39-23, Ch.136.

Children residing in temporary housing, determination of district of residence; changed, C.18A:7B-12.1, amends C.18A:7B-12 et al., Ch.290.

Drug education, prevention, intervention programs:

Anabolic steroids, inclusion; required, amends C.18A:40A-9 et al., Ch.216.

Tobacco, inclusion; required, C.18A:36-32, amends C.18A:40A-1 to 18A:40A-5, Ch.225.

SCHOOLS (Continued)

- Educational services commissions, structure, operations; changed, amends C.18A:6-51 et al., repeals C.18A:6-62.1, Ch.254.
- Exemptions; municipal, State construction fees, amends C.40:55D-8 and 52:27D-126c, Ch.43.
- Financial accounting terminology, classifications, use of standardized; required, amends N.J.S.18A:4-14 and C.18A:4-14.1, Ch.266.
- Fires; reporting, mandated, C.52:27D-25d1 et al., Ch.42.
- Heimlich Maneuver, posters depicting technique, display in locations where food is consumed; required, C.18A:33-6 and C.26:3E-3.1, Ch.302.
- "Literacy Awareness Week," established, C.36:2-12, J.R.2.
- Nonpublic, certain, employees, criminal record checks; permitted, C.18A:6-4.13 to 18A:6-4.17, Ch.229.
- Paging devices, unauthorized possession by student on school property, disorderly persons offense, C.2C:33-18 to 2C:33-20, Ch.232.
- Public school employees:
 - Collective bargaining, disciplinary negotiations, scope; broadened, C.34:13A-22 to 34:13A-29, Ch.269.
 - Criminal history record requirements; changed, amends C.18A:6-7.1, Ch.156.
- Report of children who leave school to Department of Education; required, Ch.214.
- Smoking prohibited, amends C.26:3D-17, Ch.96.
- Special education pupils, certain, attendance at private schools, permitted, amends N.J.S.18A:46-14, Ch.152.
- "Special Education Week," May 14-20, 1989, J.R.3.

SENIOR CITIZENS

- Elderly, disabled; abuse, neglect, certain; fourth degree crime, C.2C:24-8, amends C.2C:25-2 et al., Ch.23.
- Interdepartmental Task Force on the Elderly, established in the Division on Aging, C.52:27D-29.30 and 52:27D-29.31, Ch.330.
- Pharmaceutical Assistance to the Aged and Disabled, eligibility; income exclusion; gain from residence sale, certain, amends C.30:4D-21, Ch.16.
- Public guardian, collection of costs for services from income, estate of senior citizen; permitted, C.52:27G-27.1 et al., amends C.52:27G-21 et al., Ch.248.

STATE GOVERNMENT

- Construction fee exemption, boards of education, amends C.40:55D-8 and 52:27D-126c, Ch.43.
- Department heads, salaries; increased, amends C.52:14-15.107, Ch.341.
- Emergency 9-1-1 telephone system, established, C.52:17C-1 to 52:17C-26 and 48:2-21.15, amends C.40A:4-45.3 and 40A:4-45.4, Ch.3.
- Emergency Operations Plan, adoption; required, C.App.A:9-42.1b et al., amends C.App.A:9-40.1 et al., Ch.222.
- Governor, salary; increased, amends C.52:14-15.104c, Ch.342.
- Guaranteed student loans, overdue, payroll deduction program for institution, authority employees, certain; included, amends C.18A:72-23, Ch.327.
- Interdepartmental Task Force on the Elderly, established in the Division on Aging, C.52:27D-29.30 and 52:27D-29.31, Ch.330.
- Judiciary salaries; increased, amends C.2A:1A-6, Ch.343.
- Property, real, easement certain, authorized, Ch.71.
- Public land, lease to Popcorn Park Zoo; terms, regulation, Ch.233.
- Real property held by Human Services and Corrections; master plan, updates; required, C.52:31-1.6 and 52:31-1.7, Ch.110.
- State Board of Chiropractic Examiners established in Division of Consumer Affairs in Department of Law and Public Safety, C.45:9-41.17 to 45:9-41.27, Ch.153.
- State officers, criminal actions against, payment of legal expenses, certain, C.59:10-2.1 to 59:10-2.3, Ch.77.
- State parks, forests, payment by State to municipalities, certain; increased, amends C.13:1L-7, Ch.347.
- Survey base, official; changed, amends R.S.51:3-7 and 51:3-8, Ch.218.

TAXATION

- Abatements, residential property, certain; granted, C.54:4-3.139 to 54:4-3.149, Ch.207.
- Health service corporations, taxation regulations; changed, amends C.17:48E-17.1 et al., Ch.295.
- Insurance premiums tax, installment payment requirement for foreign insurance companies, changed, amends C.54:18A-1, Ch.81.
- Insurers, certain, exemption from inclusion of premiums of affiliates to determine qualification for tax preference, amends C.54:18A-6, Ch.315.

TAXATION (Continued)

- Pension income, nonresident, certain; taxation eliminated under New Jersey Gross Income Tax, amends N.J.S.54A:5-5 and 54A:5-8, Ch.219.
- Pensions, voluntary withholding of New Jersey Gross Income Tax; permitted, C.54A:7-1.1, amends N.J.S.54A:7-2 et seq., Ch.328.
- Property tax exemption for senior citizen, disabled, veteran tenants of cooperative or mutual housing corporations, C.54:4-8.55 to 54:4-8.56, amends C.54:4-8.40 et al., Ch.252.
- Sales and use tax:
 - Leased tangible personal property, provisions changed, C.54:32B-8.40, amends C.54:32B-2 et al., Ch.123.
 - Tangible personal property, use tax, certain, amends C.54:32B-6; option, amends P.L.1989, c.123, s.10, Ch.350.
- Telecommunications industry; method, restructured, C.54:30A-24.2 et al., amends C.54:32B-8.13 et al., repeals R.S.54:13-11 et al., Ch.2.

TEMPORARY DISABILITY BENEFITS

- Disability, certification by psychologists; permitted, amends R.S.43:21-4 and C.43:21-39, Ch.213.
- Limousine franchise owner; certain services excluded from unemployment compensation and temporary disability contributions, amends R.S.43:21-19, Ch.265.
- Workers' compensation, inclusion of chiropractic services in medical services, amends R.S.34:15-36, Ch.227.

TRADE REGULATION

- Motor vehicle franchises; terms, conditions, certain; prohibited, C.56:10-7.2 and 56:10-7.3, Ch.24.

TRANSPORTATION

- Improvement of railroad grade crossings, counties, municipalities, entry into contracts for, assumption of costs; permitted, amends C.48:12-49.1, Ch.247.
- "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bond Act of 1989," Ch.180.
- New Jersey Transit Corporation, issuance of capital grant anticipation notes, permitted, amends C.27:25-5, Ch.130.
- New Jersey Transit Rail Operations Police Department; established, police officers, appointment, provided, C.27:25-15.1, amends R.S.48:3-38 et al., Ch.291.

TRANSPORTATION (Continued)

"New Jersey Transportation Development District Act of 1989,"
C.27:1C-1 et seq., amends C.40A:4-45.3 and 40A:4-45.4, Ch.100.

UNEMPLOYMENT COMPENSATION

Agricultural employers; notice posting, mandated, C.43:21-11.2,
Ch.29.

Child support payments under unemployment compensation,
assessments; eliminated, amends C.2A:17-56.11, Ch.215.

Claimant's attendance at funeral of immediate family member,
eligibility, amends R.S.43:21-4, Ch.89.

Disability, certification by psychologists; permitted, amends
R.S.43:21-4 and C.43:21-39, Ch.213.

Limousine franchise owner; certain services excluded from un-
employment compensation and temporary disability contribu-
tions, amends R.S.43:21-19, Ch.265.

UNIFORM LAWS

Uniform Commercial Code, securities, uncertificated, uniform rules;
N.J.S.12A:8-108 et al., amends N.J.S.12A:1-201 et al., Ch.348.

"Uniform Unclaimed Property Act (1981)," unclaimed personalty,
law revised, R.S.46:30B-1 et seq., amends N.J.S.2A:19-42 et al.,
repeals N.J.S.2A:15-76 et al., Ch.58.

VALIDATING ACTS

Municipal fire district proceedings, Ch.178.

School district bonds, Chs.37, 177.

WEAPONS

Imitation firearms, possession under certain circumstances,
prohibited, amends N.J.S.2C:39-1 and 2C:39-4, Ch.120.

Nightstick possession, permitted; private security guards, certain,
amends N.J.S.2C:39-3, Ch.11.

WEIGHTS AND MEASURES

Net weight standards pertaining to flour, adoption; required,
C.51:1-29.2, Ch.256.

WELFARE

County welfare equalization program, transferred to Department of
Human Services, amends C.44:14-4 and 44:14-6, Ch.134.

WELFARE (Continued)

Division of Public Welfare, name changed to Division of Economic Assistance, amends C.30:4B-1 et al., Ch.88.

WOMEN

Women's centers, urban, provision of services; modified, amends C.52:27D-292, Ch.344.

WORKERS' COMPENSATION

Chiropractic services, included in medical services, amends R.S.34:15-36, Ch.227.

